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A
COLLECTION
OF THE
PARLIAMENTARY
DEBATES

IN
ENGLAND,

FROM

The YEAR M,DC,LXVIII

To the present TIME.

V O L. XIV.

DUBLIN Printed.

LONDON: Reprinted, with Additions, and
Sold by JOHN TORBUCK, in Clare-Court,
Drury-Lane. 1741.

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P A R

Parliamentary Debates.

ON the 5th of *March*, the Master of the *Mortmain* Rolls moved for leave to bring in a bill to *bill brought in.* restrain the disposition of lands, whereby the same become unalienable; which was accordingly granted, and the Master of the Rolls, Mr. *Ord*, Mr. *Glanville*, and Mr. *Plummer*, were ordered to prepare and bring in the same. This bill was presented to the House by the Master of the Rolls on the 10th of the same month, and being received was then read a first time, and ordered to be read a second time. Next day the House ordered the said bill to be printed, and it was read a second time on the 18th, and committed to a Committee of the whole house.

On the 25th of *March*, a petition of the chancellor, masters and scholars of the university of *Cambridge* was presented to the House and read, *Cambridge petition against the bill.* setting forth, ‘ That the university, and the several
 ‘ Colleges therein, were founded and endowed for
 ‘ the maintaining fit persons in the study of useful
 ‘ knowledge, and the bringing up youth in learning,
 ‘ virtue and religion; and that they had hitherto
 ‘ pursued those ends with great industry and success; and that many excellent books had been
 ‘ written by the members thereof for the service of
 ‘ religion, and many useful discoveries and great
 ‘ improvements made in arts and sciences; and that
 ‘ many of the nobility and gentry had by their
 ‘ academical education, been so well fitted for the
 ‘ service

‘ service of the church and state, as to have proved
‘ the ornaments and supports of both ; and that the
‘ university had at all times before been thought
‘ worthy of the countenance of the legislature, and
‘ continually favoured by persons of all orders and
‘ degrees, eminent for wisdom and public spirit ;
‘ and that, if the bill to restrain alienations of lands
‘ should pass into a law without amendment, it would,
‘ as the petitioners apprehended, be attended with
‘ consequences greatly prejudicial to them at that
‘ time, and much more so in time to come, because
‘ it would in a great measure prevent all donations,
‘ to supply present or future deficiencies, or for any
‘ other wise and great purposes, how useful and ne-
‘ cessary soever they might be thought ; and that a
‘ considerable part of their revenue, arose from an-
‘ nuities and other certain payments issuing out of
‘ lands and other estates ; and that many of those
‘ payments having been fixed in the reign of Queen
‘ *Elizabeth*, and still continuing invariably the same,
‘ were then, by the great fall of money since that
‘ time, sunk so far below their original value, as to
‘ be insufficient to answer the purposes, for which
‘ they were designed ; and that several headships
‘ were under 120, some under 100*l. per annum* ;
‘ and that the salaries of some professorships were
‘ under 50*l. per annum*, and others, as those of
‘ botany, anatomy, and chymistry, had no endow-
‘ ment at all ; and that the income of much the
‘ greatest part of their fellowships was under sixty,
‘ of many under forty, of some so low as thirty,
‘ and twenty, and fifteen pounds *per annum* ; and
‘ that many of their scholarships and exhibitions
‘ amounted not to above six, four and three pounds
‘ *per annum* ; and that some were even under those
‘ small sums ; and that many poor students had nei-
‘ ther scholarship nor exhibition to help towards
‘ their maintenance ; and that the number of ad-
‘ vowsons in most colleges was very small, in pro-
‘ portion

‘ portion to the number of fellows; and therefore
 ‘ praying the house to except that university, and
 ‘ the several colleges therein, out of the said bill.’
 Which petition was ordered to be referred to the
 committee of the whole house, to whom the said
 bill was committed.

Next day a petition of the chancellor, masters *Oxford pe-*
 and scholars of the university of *Oxford*, in behalf *tition.*
 of themselves, and the several colleges and halls
 within the said university, was presented to the house
 and read, setting forth, ‘ That the petitioners appre-
 ‘ hended that by the bill then depending before the
 ‘ house, to restrain the dispositions of lands, whereby
 ‘ the same become unalienable, they and their suc-
 ‘ cessors might be deprived of the assistance of fu-
 ‘ ture benefactions, and the charitable donations of
 ‘ such, as might be disposed to promote the pious
 ‘ intentions, for which that antient university was
 ‘ founded; and that the petitioners were by their
 ‘ constitution intirely founded in charity, and must
 ‘ ever continue to depend upon it; and that not-
 ‘ withstanding the large benefactions with which they
 ‘ had been formerly endowed, yet many of the so-
 ‘ cieties were so meanly provided for, that the pious
 ‘ designs of their founders must remain imperfect,
 ‘ without future benefactions, which had been found
 ‘ by long experience, to rise by such slow degrees,
 ‘ that the petitioners hoped, that when their case
 ‘ was duly considered, they would not be thought
 ‘ to be within any of the general mischiefs, that
 ‘ might arise from alienations in Mortmain;
 ‘ and that, as their present possessions were incon-
 ‘ siderable, in respect of the great number of per-
 ‘ sons that were maintained out of them; and that
 ‘ as the donations they then enjoyed, as well as those
 ‘ they might afterwards receive, must be solely ap-
 ‘ propriated to the advancement of religion and
 ‘ learning, for those reasons, they hoped that no
 B 2. ‘ difficulties

‘ difficulties or discouragements, would be put in
 ‘ the way of those, whose pious and charitable in-
 ‘ tentions might dispose them to give their assistance
 ‘ towards rendering the university in general, as well
 ‘ as the several societies of it, more instrumental in
 ‘ promoting those great and necessary ends; and
 ‘ that the petitioners therefore hoped, they should
 ‘ be exempted from the restraints mentioned in the
 ‘ bill; or that they should meet with such relief
 ‘ from that house, as to the house should seem meet.’
 Which petition was likewise referred to the same
 committee.

Clergymen's
 sons corpo-
 ration peti-
 tion.

On the 31st of the same month, a petition of the
 governors of the charity for relief of the poor wi-
 dows and children of Clergymen, was presented to
 the house and read, setting forth, ‘ That by letters
 ‘ patent of King *Charles II.* the petitioners were
 ‘ constituted a corporation, for relief of the poor
 ‘ widows and children of clergymen, and made ca-
 ‘ pable in the law, to take lands, tenements, and he-
 ‘ reditaments, not exceeding the yearly value of
 ‘ 2000*l.* and also goods, chattels, and things of what
 ‘ nature and quality soever, and to alienate and dis-
 ‘ pose of the same; which capacity was enlarged
 ‘ by his late Majesty King *George I.* to 3000*l.* a
 ‘ year more, and that the institution of that charity
 ‘ had been so well esteemed, and supported by so
 ‘ many pious and well-disposed persons, that the pe-
 ‘ titioners had, for divers years past, been able to
 ‘ make a distribution of 5*l.* a year to above 800
 ‘ widows of very poor clergymen, and to put out
 ‘ many of their children yearly to useful trades, who
 ‘ otherwise must have been burdensome to their
 ‘ respective parishes, and their children less useful
 ‘ to the commonwealth, an account of whereof had
 ‘ been annually printed and published; and that the
 ‘ objects of that charity were far more numerous,
 ‘ than the petitioners could provide for, out of their
 certain

‘ certain annual revenues, and casual benefactions,
 ‘ their certain annual revenues then not exceeding
 ‘ 3000 *l.* a year ; and therefore, as that charity was
 ‘ so well founded, and for so good purposes, and that
 ‘ corporation restrained from accepting lands beyond
 ‘ 5000 *l.* a year, and those alienable at the discretion
 ‘ of the petitioners, praying, that that corporation
 ‘ might be wholly excepted out of the bill then de-
 ‘ pending in that house, for restraining the disposi-
 ‘ tions of lands, whereby the same become unaliena-
 ‘ ble, or that such provision might be made thereby,
 ‘ that that corporation might enjoy the benefits in-
 ‘ tended them by the said royal grants, and that
 ‘ the same might be preserved to them, to the full
 ‘ extent thereof.’ No motion being made for re-
 ‘ ferring this petition to the committee, it was ordered
 to lie upon the table.

On the 2d of *April*, a petition of the governors of the bounty of *Queen Anne*, for the augmentation of the maintenance of the poor clergy, was presented to the house and read, setting forth, ‘ That the
 ‘ said governors were made a body corporate by her
 ‘ late Majesty *Queen Anne*, in the third year of her
 ‘ reign, in pursuance of an act of Parliament, impow-
 ‘ ering her to settle upon them the revenue of the first
 ‘ fruits and tenths, for the augmentation of the main-
 ‘ tenance of the poor clergy, and to make rules and
 ‘ orders for the regular administration of the same,
 ‘ by which statute, licence was given to all and every
 ‘ person or persons, by deed inrolled in such manner,
 ‘ and within such time, as was directed by the statute
 ‘ made in the 27th year of the reign of *Henry VIII.*
 ‘ for inrollment of bargains and sales, or by last will
 ‘ or testament duly executed, to grant to the said
 ‘ corporation and their successors, lands, tenements,
 ‘ hereditaments, goods and chattels for the purposes
 ‘ mentioned in the said act ; which corporation had
 ‘ also thereby full capacity to purchase, take and
 ‘ enjoy

Queen Anne's bounty corporation petition.

‘ enjoy money, lands, tenements, goods, and chattels,
‘ without any licence or writ *ad quod damnum*, the
‘ statute of Mortmain, or any other statute or law
‘ to the contrary notwithstanding ; and that after-
‘ wards, in pursuance of the powers granted by the
‘ said statute, divers rules and orders were settled
‘ and confirmed by her said late Majesty, under the
‘ great seal ; by some of which rules and orders, the
‘ augmentations to be made, were directed to be
‘ by way of purchase, and not by way of pension ;
‘ and the stated sum to be allowed for the augmen-
‘ tation of each cure, was limited to 200 *l.* to be in-
‘ vested in a purchase, at the expence of the corpo-
‘ ration ; and the said governors were empowered to
‘ give the said sum of 200 *l.* to cures, not exceeding
‘ 35 *l. per annum*, (which sum was afterwards, by
‘ the authority of his late Majesty King *George I.*
‘ extended to 50 *l. per annum*,) where any persons
‘ would give the same or greater sum or value in
‘ lands or tythes ; and such governors were directed
‘ every year, between *Christmas* and *Easter*, to cause
‘ the account of what money they had to distribute
‘ that year to be audited, and when they knew the
‘ sum, public notice was directed to be given, that
‘ they had such a sum to distribute in so many shares,
‘ and that they would be ready to apply those shares
‘ to such cures as wanted the same, and were by the
‘ rules of the corporation, qualified to receive them,
‘ where any persons would add the like or greater
‘ sum to it, or the value in lands or tythes for any
‘ particular cure ; and that the petitioners appre-
‘ hended, that by the bill then depending before
‘ the house, to restrain the dispositions of lands,
‘ whereby the same become unalienable, the rights
‘ and powers vested in them by the said act, and
‘ by the rules and orders made in pursuance thereof,
‘ might be greatly affected, if some proper provi-
‘ sion should not be made to prevent it ; and there-
‘ fore

‘ fore praying that a clause or clauses might be added, whereby the said rights and powers might be secured.’

After reading this petition, a motion was made and seconded, for ordering it to be referred to the consideration of the committee, to whom the said bill was committed ; and the same being opposed, after a pretty long debate, the question was put, and, upon a division, carried in the negative by 143 to 95 ; whereupon the petition was ordered to lie upon the table. Division.

The same day, the house, according to order, resolved itself into a committee of the whole house, upon the said bill, and made some progress, Mr. *Gybbon* being in the chair ; after which Mr. Speaker resumed the chair, and Mr. *Gybbon* reported from the committee, that they had made some progress in the bill, and had directed him to move, that they might have leave to sit again ; whereupon it was resolved, that the house would, upon *Monday* then next, at 12 o’clock, resolve itself into a committee of the whole house, to consider farther of the said bill. Bill committed.

On the said day, being *Monday, April 5th*, it was moved and resolved, That an humble address should be presented to his Majesty, ‘ That he would be graciously pleased to give directions to the proper officer to lay before that house, an account of what licences had been granted by the crown, and for what values respectively, to any person or persons, bodies politic or corporate, their heirs or successors, to alienate in mortmain, and to purchase, take and hold in mortmain in perpetuity, any lands, tenements, or hereditaments whatsoever, since the act of the 7th year of the reign of King *William III.* intitled, *An Act for the encouragement of charitable gifts and dispositions*, to that present time.’ Licences addressed for.

Clause for
excepting
the univer-
sities.

After which the house, according to order, resolved itself into a committee of the whole house, to consider farther of the said bill, when Mr. *Gybbon* being their chairman as before, the clause for excepting out of the said bill the universities of *Oxford* and *Cambridge*, and the Colleges of *Eaton*, *Winchester* and *Westminster*, with a provision relating to advowsons, was presented, and a motion made for its being received and made part of the bill, which occasioned some debate ; but upon the question's being put, it was, upon a division, carried in the affirmative, by 227 to 130.

Advowsons
not to be ex-
changed.

With respect to the proviso relating to advowsons, an amendment was proposed for leaving it in the power of the several colleges belonging to the two universities, to exchange small livings for larger, so as not to increase the number of advowsons, to which they were by the act to be restrained, which occasioned a new debate, and at last upon putting the question, it was carried in the negative.

Grey-coat
hospital pe-
tition.

After which, the committee having gone through the bill, they directed their chairman to report the amendments they had made to it, when the house should please to receive the same ; and on the 7th a petition of the *Grey-coat* hospital in *Totbill-fields*, of the royal foundation of *Queen Anne*, was presented to the house and read, setting forth, ‘ That by letters patent dated the 19th day of *April*, in the 5th year of the reign of the late *Queen Anne*, the petitioners were constituted a corporation, and made capable in the law to take lands, tenements, and hereditaments, not exceeding the yearly value of 2000 *l.* and also goods, chattels, and things of what nature or value soever, for the benefit of such poor children of the parish of *St. Margaret, Westminster*, as from time to time should be admitted
‘ into

‘ into the said hospital ; and that the petitioners had
 ‘ for several years past been enabled to maintain,
 ‘ cloath and teach a considerable number of poor
 ‘ children of both sexes, and had, from the time of
 ‘ the first foundation of the said hospital, placed out
 ‘ above 500 such children apprentices, some to the
 ‘ sea-service, and others to useful trades, husbandry,
 ‘ and housewifery ; and that the children then, and
 ‘ many years past, were many more in number than
 ‘ the petitioners could provide for by the yearly sub-
 ‘ scriptions and collection joined to the certain annual
 ‘ revenues of the said hospital, which together, at
 ‘ that time, did not exceed 700 *l.* a year ; so that
 ‘ were it not for the casual and generous benefac-
 ‘ tions, the petitioners had received by the bequests
 ‘ of several pious and well-disposed persons, they
 ‘ could not take so many poor children into their
 ‘ care and protection, to be maintained, cloathed,
 ‘ and instructed ; and therefore, in consideration the
 ‘ then annual revenue belonging to that hospital was
 ‘ of so small a value, praying that that corporation
 ‘ might be excepted out of the bill then depending in
 ‘ that house, for restraining the dispositions of lands,
 ‘ whereby the same become unalienable, or that such
 ‘ provision might be made thereby, that the be-
 ‘ nefits intended them by the grant of their royal
 ‘ foundress might be preserved to them in their full
 ‘ extent.’ Which petition was ordered to lie upon
 the table.

Next day a petition of the trustees of the several charity-schools within the cities of *London* and *West-*
minster, borough of *Southwark*, and bills of morta-
 lity, in behalf of upwards of 5000 poor children
 cloathed and educated in the said schools ; and also
 in behalf of all other charity-schools in this kingdom,
 for the education of the children of the poor in the
 principles of the church of *England*, as by law esta-
 blished, was presented to the house, and read, set-
 ting

Charity-
schools pe-
tition.

ting forth, ‘ That, if the bill then depending in
 ‘ that house, to restrain the dispositions of lands,
 ‘ whereby the same become unalienable, should
 ‘ pass into a law without amendment, it would pre-
 ‘ vent many charitable donations for the promotion
 ‘ of the said schools, which were so far from having
 ‘ any large endowments in land or money, that ve-
 ‘ ry few had so much as a school-house ; and that,
 ‘ as the voluntary contributions did not equally and
 ‘ regularly answer the constant expences, the trustees
 ‘ in several places had been obliged to reduce the
 ‘ number of their children, and in others the schools
 ‘ had been entirely laid down, for want of means to
 ‘ support them ; and representing to the house the
 ‘ great usefulness of those schools, and alledging that
 ‘ during the continuance thereof, the petitioners had
 ‘ placed out upwards of 17,000 children within the
 ‘ said bills of mortality to apprenticeships in the low-
 ‘ er trades, and to menial services, whereof about
 ‘ one half had been put out to such services, be-
 ‘ sides near 400 bound to the sea-service ; and there-
 ‘ fore praying the house to except the said charity-
 ‘ schools out of the said bill, or to grant them such
 ‘ other relief, as to the house shall seem meet.’
 This petition was likewise ordered to lie upon the
 table.

Bill sent to
 the Lords,

The same day the report from the committee up-
 on the said bill was received, and the amendments,
 with amendments to one of them, all agreed to ;
 after which the bill, with the amendments, was or-
 dered to be ingrossed, and on the 15th the bill was
 read a third time, and a motion made for its being
 passed, which occasioned some debate ; but upon
 the question being put, it was, upon a division, carried
 in the affirmative by 176 to 72 ; and Mr. *Gibbon*
 was ordered to carry the bill to the Lords, and de-
 sire their concurrence.

On the 16th of *April*, this bill was read a first time in the house of Lords, a second time on the 20th, and on the 5th of *May*, the said house resolved itself into a committee upon the same, when the chief debates happened both in relation to the merits of the bill in general, and in relation to the several particular clauses.

Bill read by
their Lord-
ships.

Before the house resolved itself into the said committee, the Lord *Gower* moved for an instruction to receive a clause in favour of the universities, much of the same nature with that proposed in the house of Commons, with respect to the giving them a liberty to exchange the small livings they were, or might be in possession of, for others of a greater value, so as the number of advowsons in the possession of any college, might never exceed the number prescribed by the bill; in which he was supported by the Lord *Batburst*, the Earl of *Abingdon*, the Earl of *Strafford*, &c. but upon the question's being put, it was carried in the negative.

Clause offer-
ed for the
universities.

After the house had resolved itself into the committee, the Earl of *Strafford* took notice that the words (to uses called charitable uses) in the preamble, seemed to cast some sort of reflexion upon those charitable foundations which had been lately established, none of which, he hoped, their Lordships would look on as a public mischief, and therefore he proposed leaving them out, in which he was seconded by the Earl of *Abingdon*, and the Bishop of *Salisbury*, but this amendment was disagreed to; because some of the late dispositions made to such foundations seemed to be a little extravagant, and even the foundations themselves, if they had not already, might very soon become a public mischief.

Amendment
to the pre-
amble pro-
posed.

The Bishop of *Salisbury* likewise took notice,
' That by some words in the first enacting clause,
the

Explanation
for Queen
Anne's
bounty pro-
posed.

‘ the charitable foundation called Queen *Anne*’s boun-
 ‘ ty, which he hoped was looked on by all their
 ‘ Lordships as a most useful and necessary founda-
 ‘ tion, would be disabled even from taking any sum
 ‘ of money or other personal estate; for by that
 ‘ clause, as it then stood, no sum of money or other
 ‘ personal estate whatsoever, to be laid out in the pur-
 ‘ chase of lands, could be given by will to any cha-
 ‘ ritable use whatsoever; and as that society, by
 ‘ their own rules and orders, were obliged to employ
 ‘ all sums of money left to them in the purchase of
 ‘ lands, he was afraid, that every legacy left to them
 ‘ by will, would be within the restraining words of
 ‘ that clause; therefore he hoped some explanato-
 ‘ ry words would be added in behalf of that society;’
 but this was likewise disagreed to.

Proviso for
 real purcha-
 ses received.

Then the Lord *Hardwicke* took notice, That the
 general words in the restraining clause might, in
 some cases, affect purchases for a valuable conside-
 ration, therefore he moved, that the following pro-
 viso should be inserted in the bill, *viz.*

‘ Provided always, that nothing herein before-
 ‘ mentioned, relating to the sealing and delivery of
 ‘ any deed or deeds, twelve kalendar months at
 ‘ least, before the death of the granter, or to the
 ‘ transfer of any stock, six kalendar months before
 ‘ the death of the granter, or person making such
 ‘ transfer, shall extend, or be construed to extend,
 ‘ to any purchase of any estate in lands, tenements,
 ‘ or hereditaments, or any transfer of any stock, to
 ‘ be made really and *bona fide* for a full and valuable
 ‘ consideration actually paid, at or before the mak-
 ‘ ing such conveyance or transfer, without fraud or
 ‘ collusion.

This was objected to by some Lords, as being
 unnecessary, and as it would afford a handle for
 evading the law; for as conveyances of land estates
 might be, according to the laws of this kingdom,
 made

made by persons on death-bed, it would be easy for any charitable corporation or body politic, to pay a full and valuable consideration in ready money, at or before the making of any such death-bed conveyance or transfer, and at the same time to have a will made, whereby the sum so paid should be left them by way of legacy, which would be a good bequest; and with that legacy the body politic might replace the money which they had laid out upon the purchase; but it being the general opinion, that such a conveyance and bequest would be interpreted, as made by fraud or collusion, in order to evade the law, and would not therefore be within the proviso; and it being thought, that it would be a great hardship upon all bodies politic, to make void every purchase or transfer they could afterwards make or receive, in case the granter, or person who made the transfer, should, by accident, die within a twelve-month after such purchase, or within six kalendar months after such transfer, even though really and *bona fide* made for a full and valuable consideration, paid at or before the making of such purchase, or transfer, therefore it was agreed, that the proviso offered should be inserted, and made part of the bill.

The committee went afterwards through the bill, and ordered their amendment to be reported to the house, and accordingly, on the 11th, the Lord *Delawar*, their chairman, reported the same to the house, when a proposition was made to leave out, at the latter end of the first enacting clause, these words, *viz.* ‘ And unless the same be made to take effect, ‘ in possession for the charitable use intended, immediately from the making thereof, and be without ‘ any power of revocation, reservation, trust, condition, limitation, clause, or agreement whatsoever, for the benefit of the donor or granter, or of ‘ any person claiming under him.’ This occasioned a pretty long debate, the substance of which we shall

Words proposed to be left out.

shall give in the argument upon the bill in general; but the question being at last put, Whether those words should stand part of the bill, it was resolved in the affirmative; and the amendment made by the committee being agreed to, the bill was ordered to be read a third time; which was accordingly done on the 13th, and the bill passed without a division; but the following temporal Lords entered their protest, without giving any reasons, viz.

*Abingdon,
Beaufort,
Oxford and Mortimer,
Montjoy.*

*Northampton,
Litchfield,
Strafford,*

The arguments for the bill were as follow, viz.

Argument
for the
Mortmain
bill.

‘ My Lords, As the landed interest of this kingdom has always been our chief support against foreign enemies, and the great bulwark for defending the liberties of the people, against the attempts of ambitious incroaching power, therefore it has always been reckoned a most necessary and a fundamental maxim of our constitution, not to allow any great share of our landed interest to be vested in societies or bodies politic, either sacred or profane: This maxim appears to be coeval with our monarchy, and it is expressly established by the great charter; for though grants or alienations of lands to religious houses only, be thereby prohibited, yet this prohibition was founded upon the general maxim, and religious houses only were then mentioned, because alienations to them was at that time the only transgression of this maxim, which had been felt or complain’d of; but in the very next reign, in the seventh year of the reign of our great *Edward I.* this defect was supplied; and by an express statute, alienations of lands to
‘ any

‘ any body politic whatsoever, were forbidden, under pain of forfeiting the same: Nay, so sensible was that wise King of the necessity of this maxim, that by the said statute it is enacted, That no body politic shall presume to appropriate to themselves any lands or tenements by any artful or evasive method whatsoever; and of such consequence was the alienation of lands in Mortmain thought of old, that by one of our old statutes, the writ *ad quod damnum*, for alienating lands in Mortmain was ordered not to be granted, but upon petition in full Parliament.

‘ ’Tis true, my Lords, our ancestors had several reasons for preventing the alienation of lands in Mortmain, which do not subsist at this day. We are not now in any danger of having our lands swallowed up by an ambitious and avaritious clergy, therefore we need not provide so strongly against our lands passing into their hands. The defence of the nation does not now so much depend upon our militia or military tenures, therefore the safety of the nation cannot be brought into so great danger by a multiplicity of such grants: And as our lands are all now held by socage tenure, neither his Majesty, nor any inferior Lord under him, can be so much injured by such a grant: But there is another reason which then subsisted, which now subsists, and which will always subsist; for if a great part of the land estates of this kingdom should ever come to be possessed by corporations or bodies politic, it might be of the most dangerous consequence, both with respect to our security against foreign invasions, and with respect to the preservation of our rights and privileges; because it is certain, that a man who has in his own person a particular right to any land estate, which he may transmit to his posterity, will be more daring and active in the defence of that right against a foreign enemy

‘ enemy, and more jealous of arbitrary power by
‘ which that right may be made precarious, than we
‘ can suppose any man will be, who has a right in
‘ the lands only as a lessee, or as a member of a
‘ corporation. This, my Lords, to me will always
‘ be a strong reason for looking with a jealous eye
‘ upon the growing property of corporations in the
‘ lands of this kingdom: This I take to be now one
‘ of the chief reasons for not allowing any bodies po-
‘ litic to purchase lands without the King’s licence;
‘ and while our laws continue as they stand at pre-
‘ sent, it is to be hoped that the power of granting
‘ such licences will be made use of with great cir-
‘ cumpection.

‘ As this power has not yet been too far extend-
‘ ed, as we are certain no wrong or unwise use will
‘ be made of it during his present Majesty’s reign,
‘ therefore it is not yet absolutely necessary to subject
‘ it to any restraint: But, my Lords, there is an e-
‘ vil lately grown up; an evil not founded upon
‘ our ancient constitution, but an evil which took
‘ its rise from our having departed, about two cen-
‘ turies ago, from the common law of this kingdom.
‘ I mean the liberty of granting or devising all sorts
‘ of land estates by will, and even upon death-bed,
‘ not only to the disappointment and disherison of a
‘ man’s natural and lawful heirs, but to the preju-
‘ dice of the common good of this kingdom, and
‘ in contradiction to that antient maxim, which for-
‘ bids the granting or alienating any lands in Mort-
‘ main. Happy was it for this nation, and for ma-
‘ ny great families in this kingdom, that no man
‘ had such a liberty in the times of popery and su-
‘ perstition; for if men could have then granted
‘ their estates by will, we should never have had
‘ such an article as I have mentioned in *Magna Char-*
‘ *ta*, nor any law against Mortmain; we should ne-
‘ ver have had a reformation, nay, I doubt much if
‘ we

‘ we should have had a layman of a land estate in
‘ *England*: But luckily for us, we did not think of
‘ this alteration of the common law, till the refor-
‘ mation was not only begun, but pretty far ad-
‘ vanced, and those monasteries and religious or-
‘ ders dissolved, who had been for ages the taxers of
‘ every dying man’s will, and the terror of all his
‘ relations.

‘ We know, my Lords, that this liberty of de-
‘ vising land estates by will, was first established by
‘ a statute of the 32d of *Henry VIII.* which was
‘ explained and enforced by another statute of the
‘ 34th and 35th of that King’s reign. However,
‘ by these two statutes there were some restraints
‘ laid, or rather left, upon granting or alienating
‘ land estates by will; for a man was allowed to
‘ devise but one third part of his lands held by
‘ knights service, and there is an express exception
‘ made with respect to bodies politic or corporate;
‘ so that no man could, by these statutes, devise a
‘ land estate to any body politic or corporate, no
‘ not even with the King’s licence; but both these
‘ restraints are now in a great measure removed, for
‘ all tenures having been, by an act of the 12th of
‘ King *Charles II.* turned into free and common
‘ socage, a man may now devise by will all his fee-
‘ simple lands if he pleases; and, by an act of the
‘ 2d of Queen *Anne*, any person may by will devise
‘ his whole land estate to the corporation, for the
‘ bounty of Queen *Anne*, and they are enabled to
‘ take and enjoy the same, without any licence or
‘ writ *ad quod damnum*. So that with respect to
‘ this corporation, every man may upon his death-
‘ bed, and even in his last moments, devise his
‘ whole land estate, not only to the disappointment
‘ and disinheritance of his natural and lawful heirs, but
‘ to the prejudice of what was of old thought to be
‘ the common good of this kingdom, and in con-
‘ tradiction to that ancient maxim, which forbids

the granting or alienating any lands in Mortmain,
without a writ *ad quod damnum*, which formerly
could not be granted but upon a petition in full
Parliament.

So careful, my Lords, were our ancestors in
preventing the lands of this kingdom from coming
into the hands of corporations or bodies politic,
ecclesiastical or lay, sole or aggregate, that grants
or alienations of lands to any person or persons in
trust, and for the use of such bodies, are declared
void by a statute of the 15th of *Richard II.* and
by a statute of the 23d of *Henry VIII.* all grants
and alienations of lands, to any person or persons,
in trust for any superstitious use, are declared to
be utterly void. But, of later times, we have found
out a sort of use called a charitable use, for the be-
nefit of which a man may alienate, grant, or de-
vise his lands; so that as the law stands at present,
though a man cannot devise his lands to any cor-
poration, except that for the bounty of *Queen Anne*,
yet he may now upon his death-bed, and even in
his last moments, devise his whole land estate to
any person or persons in trust, for the benefit of
any charitable use he pleases to appoint.

How we have come, my Lords, in these later
ages, to establish so unbounded a liberty of devi-
sing land estates by will, and in Mortmain too, I
do not know; but I am sure it is inconsistent with
the ancient maxims of this kingdom, and with the
laws now subsisting in most countries of *Europe*;
for in *Scotland* no man can, as yet, grant or devise
any land estate by will; and in *Wales*, the liberty
of disposing of estates by will was so much confi-
ned, that they could not, by their last will or te-
stament, freely dispose of their goods and chattels,
till an act was made in the 7th and 8th years of
the reign of his late Majesty King *William* for
that purpose. Though this unbounded liberty may
be attended with some conveniences, yet I am per-
suaded,

‘ suaded, it often subjects dying persons to great
 ‘ trouble and solicitation, so that many of them have
 ‘ been, and many may be, obliged to purchase the
 ‘ privilege of passing their last moments in ease and
 ‘ quiet, at the expence of their natural heirs; which
 ‘ I must call an injustice done to a man’s next rela-
 ‘ tions, if they have never been guilty of any thing to
 ‘ deserve being disappointed of that expectation they
 ‘ are justly entitled to by the laws of their country;
 ‘ and it is certain that more law-suits have sprung
 ‘ from this fountain, than from any other regulation
 ‘ in the whole body of the laws of *England*: This
 ‘ injustice and inconvenience are most emphatically,
 ‘ as well as prophetically, taken notice of by the
 ‘ great *Coke*, in his remarks upon the two statutes
 ‘ of *Henry VIII.* I have mentioned; where having
 ‘ taken notice, that, by the common law, no lands
 ‘ or tenements were devisable by any last will and
 ‘ testament; “but now (says he) since *Littleton*
 “wrote, by the statutes of 32 and 34 *Henry VIII.*
 “lands and tenements are generally devisable by the
 “last will in writing, or the testament of the tenant
 “in fee-simple, whereby the antient common law
 “is altered, whereupon many difficult questions,
 “and most commonly disherison of heirs (*when the*
 “*devisors are pinched by the messengers of death*, he
 “might have added, *some other sorts of messengers*)
 “do arise and happen.” From these words we
 ‘ may judge, that That great man did not much ap-
 ‘ prove of those two statutes; and if he had been a-
 ‘ live at this day, I am convinced he would have
 ‘ much less approved of the statute made in the se-
 ‘ cond of *Queen Anne*, which I have already taken
 ‘ notice of.

‘ I am very far, my Lords, from disapproving
 ‘ of all charitable foundations, or of all donations
 ‘ to charitable uses, either by will or by deed; but
 ‘ I am convinced, that our charitable foundations
 ‘ may become too numerous, and that some of those

‘ we have already established, may become too rich
‘ and extensive, especially if the unlimited power
‘ of granting licences, first vested in the crown, by
‘ the statute of the 7th and 8th of the late King
‘ *William*, be not cautiously and moderately used.
‘ However, as no wrong use has yet been made of
‘ that power, as there is no appearance or suspicion
‘ that a wrong use will be made of it, there is there-
‘ fore no present occasion for laying any restraint
‘ upon it, or for laying any restraint upon those do-
‘ nations which are made to corporations or charita-
‘ ble uses, by men in full health and vigour, and to
‘ take place immediately upon the executing of the
‘ writings for that purpose; but as for those dona-
‘ tions which are made by will, or by any deed in
‘ the nature of a will, and not to take place till af-
‘ ter the death of the donor, I am of opinion, that
‘ it is high time for us to reassume the maxims of
‘ our ancestors, by restraining this testamentary power
‘ with respect at least to land estates; for, by the
‘ specious pretence of charity, the solicitations of
‘ those who are interested in charitable foundations,
‘ and the pride and vanity of donors, it is to me
‘ highly probable, that too great a part of the lands
‘ in this kingdom may soon come to be in Mort-
‘ main, to the prejudice of the nation in general,
‘ and to the ruin or unjust disappointment of many a
‘ man’s poor relations; for I cannot but think that
‘ a man’s heirs at law have some sort of natural
‘ right to succeed after his death, at least to his land
‘ estate, unless they have forfeited that natural right
‘ by some sort of unnatural behaviour; and I cannot
‘ think it any charity in a man to give, even to the
‘ most charitable use, that which he cannot in him-
‘ self either possess or enjoy: The giving of any
‘ such charity I shall always look on rather as an act
‘ of injustice towards the heir at law, than as an
‘ act of charity in the donor; and as the giving
‘ of land estates in such a manner, is contrary to
‘ the

‘ the antient maxims of the kingdom, and may
‘ be of dangerous consequence to the public, I
‘ think it ought to be prevented. This is what is
‘ intended by the bill now before us, and therefore
‘ I am most heartily for its being passed into a
‘ law.’

The answer was in substance as follows, *viz.*

‘ My Lords, that we have very ancient and very
‘ strong laws against granting or alienating lands in
‘ Mortmain, is what I shall not deny, nor have I,
‘ at present, any occasion for so doing; but the chief
‘ reasons for enacting those laws were such as do not
‘ now, nor I hope ever will again subsist in this na-
‘ tion. We know, that while popery was establish-
‘ ed in this country, all the lands which the priests,
‘ regular or secular, could once get possession of, be-
‘ came not only unalienable, but were in a manner
‘ torn off from the commonwealth, and dismember-
‘ ed, as it were, from the body of the society; for
‘ they were rendered for ever free from public taxes,
‘ or from being obliged to contribute any thing to-
‘ wards the safety or defence of the kingdom; and
‘ as the priests were more properly the subjects of the
‘ Pope of *Rome*, than of the King of *England*, eve-
‘ ry enlargement of their possessions was an increa-
‘ sing of the power of a foreign Prince, in the very
‘ bowels of the kingdom. This was the chief and
‘ the strongest reason for preventing the alienation
‘ of any lands to them; and there was another rea-
‘ son of a private nature, which was good against a-
‘ lienations either to lay corporations or ecclesiastic:
‘ I mean the damage that might accrue by aliena-
‘ tions in Mortmain, to the lords of whom those
‘ lands were held; for the Lord was thereby for ever
‘ deprived of all those profits and services which were
‘ or might become due to him by the nature of the
‘ tenure;

tenure ; but as neither of these reasons now subsist, as no lands alienated in Mortmain can now be freed from any of the public taxes, and as no private man can suffer by any such alienation, we have not so great cause to guard against alienations in Mortmain.

I shall grant, my Lords, that a man who has a particular right to a land estate, which he may transmit to his posterity, will probably be more concerned about the preservation of that right, than about preserving a right which he has in lands, only as a member of a corporation ; but every man, who has a concern in the management of a corporation, has some property of his own, and the preservation of that property will make him as daring and active against a foreign enemy, and as jealous of arbitrary power, as his nature and constitution will admit, which is all that could be expected of him, were he the proprietor of those lands, in which he has only a right as a member of a corporation ; so that if all the lands in *England* were in the possession of corporations, I believe the people would be as ready to defend themselves against a foreign enemy, and as tenacious of their liberties and privileges as they are at present : And as for our religious corporations, besides the concern which every member must have for preserving the private property he possesses, if he has any regard for the religion he professes, he must have a more than ordinary concern for preserving the nation against foreign invasions, and for preserving our happy constitution ; for by the success of any foreign invasion, the established religion would certainly be destroyed, and it would be in a very precarious situation, if it should ever come to depend upon the variable will of an arbitrary Prince ; from whence I must conclude, that neither the safety of the nation, nor the preservation of our constitution, is
much

‘ much concerned in preventing the alienation of
‘ lands in Mortmain.

‘ The only reason I can suggest to myself for re-
‘ straining the alienation of lands in Mortmain, is,
‘ lest any one particular corporation should, by get-
‘ ting a great deal of land in their possession, become
‘ so powerful, as to be able to prescribe laws to the
‘ whole kingdom; and I am sure there is not, at
‘ present, a corporate body in the kingdom from
‘ which any such danger is to be apprehended; nor
‘ can such a danger arise in any time to come, while
‘ our present laws against alienations in Mortmain
‘ continue in force; for as no corporate body can
‘ purchase or hold a greater quantity of land than
‘ they are now intitled to purchase, without a new
‘ licence from the crown, it will always be in the
‘ power of the crown to put a stop to the purcha-
‘ sing of more lands by any particular corporation,
‘ whenever it shall be thought proper; which we
‘ may assure ourselves the crown will always do,
‘ long before any such corporate body arrives at a
‘ dangerous pitch of riches and power. With re-
‘ spect therefore to alienations of land in Mort-
‘ main, I can see no reason for any new law a-
‘ gainst them, or for laying any farther restraint up-
‘ on them.

‘ Now, my Lords, with regard to the granting
‘ or devising lands by will, it is certain, that by
‘ several late statutes a much greater latitude is al-
‘ lowed in that way, than was allowed by the com-
‘ mon law; but we very well know the two chief
‘ reasons why no such devises, except with respect to
‘ burgage tenures, were allowed by the common
‘ law. The first proceeded from the nature of our
‘ ancient tenures; for as all our lands were granted
‘ to men and their heirs, for certain services to be
‘ performed to the Lord or granter, it was thought
‘ necessary the land should descend to the heir, in
‘ order to enable him to perform those services to

his Lord; so that the first grant was looked on as a sort of entail, for the tenant in most cases could not so much as alienate the lands, even in his lifetime, without the consent of the Lord; the nature of the tenure therefore disabled him from disposing of his fee without the consent of his Lord, and if he had time to obtain the consent of his Lord, for granting his fee to any other person besides his next heir, it was as easy for him to do it by deed as by will; for which reason, while things continued in that situation, it was quite unnecessary to give any man a power to dispose of his land estate by will, even though he should obtain his Lord's consent for so doing. The other reason proceeded from the nature of the popish Religion, for in all countries where that religion is established, the monks and fryars insidiously watch the last moments of every dying person, in order to terrify him into the giving great legacies to their respective fraternities; and as some of the tenets of that religion are most artfully adapted for making men very generous to the church in their last moments, the lawgivers of this country, as well as most other countries, took care that it should not be in the power of those priests to make themselves the heirs as well as executors to any dying person.

But now, my Lords, both these reasons are removed from this happy kingdom; and therefore I think the natural right a man has to dispose of his own, at what time and in what manner he thinks most proper, ought to take place. It is certain, that a power to dispose of a man's estate at his death, in such a manner as he may then think best, is a great incitement to industry and frugality, and consequently a great encouragement to trade in every country where it is established; and we may observe, that the trade and riches of this kingdom has increased more in the two centuries since this natural right was restored, than it did in many ages before.

‘ before. It is a power that is coveted by every
‘ man, because when he has any estate, and a power
‘ to dispose of that estate by will, while he lives he
‘ may expect to meet with a proper regard and at-
‘ tendance, both from his next relations and all those
‘ who happen to be near him ; whereas, take this
‘ power from him, and he may very probably, in
‘ his last sickness or extremity, be neglected by his
‘ next heirs, and despised by all his servants. For
‘ this reason, if you lay any restraint upon a man’s
‘ disposing of his land estate by will, it will certain-
‘ ly prevent many from laying out any part of their
‘ money upon land, which will of course sink its
‘ value ; for the value of lands, as well as of every
‘ other commodity, depends much upon the num-
‘ ber of buyers that happen to be in the market.
‘ Even our ancestors, my Lords, notwithstanding
‘ the dangers and the apprehensions they were under
‘ from the insidiousness of popish priests ; yet so sen-
‘ sible were they that this power of disposing of our
‘ estates by will, was an encouragement to trade,
‘ that by the customs of all our trading towns, and
‘ wherever the tenure would admit of it, even lands
‘ were deviseable by last will : I mean those lands
‘ which were held by burgage tenure ; and though
‘ Sir *Edward Coke* does seem to throw some reflexi-
‘ on upon making other lands devisable by will, yet
‘ we know it to be an axiom in law, as old as the
‘ common law of *England*, that *Interest reipublicæ*
‘ *suprema hominum testamenta rata haberi*, which
‘ axiom that great lawyer has mentioned with a
‘ seeming approbation. I shall grant, that the power
‘ of disposing of a land estate by will, may subject
‘ a man upon his death-bed to many solicitations and
‘ great importunities ; by which some men may be,
‘ in a manner, forced to disappoint their natural
‘ heirs, though this last I believe seldom or ever
‘ happens, except where such heirs have been guilty
‘ of

‘ of some misbehaviour, or at least of some impru-
‘ dence ; but there is no convenience in this life
‘ without some inconveniencies attending it : The
‘ possession of a great estate, or of great power,
‘ subjects a man to many sollicitations and much trou-
‘ ble, yet no man would give up a great estate, in
‘ order to avoid such sollicitations, and very few would
‘ refuse to accept of a great employment, because of
‘ the trouble attending it. If this argument were
‘ good, against leaving it in a man’s power to dis-
‘ pose of his land estate by will, it would likewise
‘ be a good argument against leaving it in his power
‘ to dispose of his personal estate by testament, and
‘ therefore it might be said, we ought to return to
‘ the ancient *Welsh* law, which was abolished by an
‘ act of the late King *William*. In the same man-
‘ ner, if the multiplicity of law-suits occasioned by
‘ devises of land, could be a good argument against
‘ admitting of any such devises, it would likewise
‘ be a good argument against admitting of any pro-
‘ perty, because it is certain, if there were no pro-
‘ perty there could be no law-suits. But the conve-
‘ niencies attending property, as well as the conve-
‘ niencies attending the free disposal of that proper-
‘ ty, are much greater than the inconveniencies, and
‘ therefore both ought to be established and preserv-
‘ ed in every well-regulated society : Nay, in most,
‘ I believe in all societies, a greater latitude has been
‘ given, and more favour shewn to the disposing of
‘ estates by will, than to the disposing of estates by
‘ deed : In this country we know, that a more be-
‘ nign and favourable interpretation is put upon the
‘ words of a will than on those of a deed ; and per-
‘ sons under the age of 21 are allowed to dispose of
‘ their estate by will, though they are not allowed to
‘ dispose of it by deed ; besides several other privi-
‘ leges with respect to wills, all which it would be
‘ too tedious to mention.

‘ Having thus, my Lords, shewn that there is
‘ now no danger to be apprehended from alienations
‘ in mortmain, or from a liberty of devising land
‘ estates by will, I must next beg leave to take notice
‘ of that particular sort of devises which is to be re-
‘ strained by the bill under our consideration ; and
‘ here I hope your Lordships will excuse me, if I
‘ say a few words in favour of charity. I am sure it
‘ does not stand in need of an advocate with any
‘ Lord in this house ; but as the bill now before us
‘ will, in my opinion, be a great obstruction to all
‘ charity for the future, I think my self obliged to
‘ say something in favour of that amiable and useful
‘ virtue. To assist the widow and fatherless, to re-
‘ lieve the unfortunate and distressed, to give bread
‘ and employment to the indigent and industrious,
‘ to nourish the tender infant, and succour the help-
‘ less old, are actions in a private man, which I am
‘ sure, will always meet with a general and just ap-
‘ plause ; and if they are commendable in a private
‘ man, surely they are not so abominable when per-
‘ formed by the public, as to deserve being prohi-
‘ bited by a public law. On the contrary, we find
‘ that in all countries, and in all ages, a proper care
‘ of the poor, and proper hospitals for that purpose,
‘ has always been taken notice of as a certain sign of
‘ a wise and good magistracy, and of a well-regula-
‘ ted commonwealth. I am sure I have often heard
‘ it told to the praise and honour of a neighbouring
‘ republic, that a native of their country is seldom
‘ or ever seen begging in the streets ; and but very
‘ lately in this house, I heard great encomiums
‘ thrown out upon a certain set of people in this
‘ kingdom, for that they took a particular care of
‘ their poor. Now, my Lords, if it be a good and
‘ laudable thing in a state, if it be a good and lauda-
‘ ble thing in any private society, to take a proper
‘ and effectual care of their poor, what can we
‘ think of a law in any kingdom for preventing its
‘ being

‘ being ever in their power, in a public way, either
‘ to supply the poor, or relieve the distressed? In
‘ no country, in no society can this be done, in a
‘ public way, without a public fund for that pur-
‘ pose ; and the larger the fund is, the more effec-
‘ tually and the more generally will the poor be sup-
‘ plied, and the distressed relieved: Therefore in
‘ every country, and in every society, there ought to
‘ be some such public fund ; and till that fund be
‘ grown fully sufficient to answer the purposes de-
‘ signed, surely no methods ought to be taken to
‘ prevent its increase.

‘ We have, it is true, my Lords, many and
‘ great hospitals in this kingdom, but they are far
‘ from being sufficient for the purposes designed. To
‘ nourish and feed our children, to educate them in
‘ the true principles of religion and morality, and to
‘ breed them up to some trade or employment, by
‘ which they may provide for themselves, and be
‘ useful to society, are duties incumbent upon every
‘ parent ; but when the parents are dead, or rendered
‘ unable to perform those duties to their children,
‘ the children then become the children of the com-
‘ monwealth, and those duties ought to be perform-
‘ ed by the public. Let us take a view of the seve-
‘ ral parts of this great city, or of any part of the
‘ kingdom, and we may see that the hospitals we
‘ have for poor children are far from being sufficient
‘ for all the poor children who have no parents, or
‘ whose parents are unable to provide for them. To
‘ support a decayed and decrepid parent, who through
‘ age or infirmity is not able to provide for himself,
‘ is a duty incumbent upon his children, but when
‘ he has no children, or such as are unable to dis-
‘ charge that duty, it then becomes a duty upon the
‘ public ; and though we have several hospitals for
‘ the old and infirm, I am sure they are far from be-
‘ ing sufficient for the purpose. In the same manner
‘ we shall find that our hospitals for sick and wound-
‘ ed,

‘ ed, and our hospitals for mad-men and ideots are
‘ far from being sufficient for providing for all such
‘ objects of charity : And when we find there is
‘ such a deficiency in every branch of public chari-
‘ ty, I must think it both uncharitable and unwise
‘ to make a regulation which will very much pre-
‘ vent the increase of every one of our public chari-
‘ table funds.

‘ Among our many other charitable foundations,
‘ I hope it will be granted, that the public charity
‘ established by her late Majesty Queen *Anne*, for
‘ augmenting the maintenance of ministers of the
‘ established church, not sufficiently provided for,
‘ and from thence called *The corporation for Queen*
‘ *Anne’s bounty*, is a necessary and useful foundation.
‘ The distressed and narrow circumstances of many
‘ pious and worthy clergymen of the church of *Eng-*
‘ *land*, is an evil and a scandal that has been often
‘ taken notice of, and heavily complained of, there-
‘ fore, in order to provide a cure for that evil, and
‘ to remove that scandal from the nation, her most
‘ gracious Majesty, by authority of an act of Parlia-
‘ ment, did establish a corporation, upon whom she
‘ settled the first-fruits of all benefices spiritual, and
‘ by the same act of Parliament any person is ena-
‘ bled to grant to the said corporation any real or
‘ personal estate ; all which they are to apply to the
‘ augmentation of the maintenance of ministers of the
‘ church of *England*, having no settled competent
‘ provision, to be applied according to the will of
‘ the benefactor, or in such manner, and according
‘ to such rules, as should be appointed by their char-
‘ ter : Accordingly, divers rules and orders were
‘ settled by her said late Majesty, by some of which
‘ rules and orders, the augmentations to be made
‘ were directed to be by way of purchase, and not
‘ by way of pension ; and the stated sum to be al-
‘ lowed for the augmentation of each cure, was li-
‘ mited

‘mitted to 200 *l.* and the corporation was empower-
‘ed to give the said sum only to cures not exceeding
‘35 *l. per annum*, (which was by authority of his
‘late Majesty King *George I.* enlarged to 50 *l. per*
‘*annum*) but this sum of 200 *l.* each, is first to be
‘applied to those cures not exceeding 50 *l. per an-*
‘*num*, where any person will give the same, or
‘greater sum or value in lands or tythes to the same
‘cure. Now, my Lords, let us consider the pro-
‘per fund of this charity, and the uses for which it
‘is intended, in order to see whether the fund is any
‘way sufficient for answering the design. The on-
‘ly proper fund they have, is the revenue of the first
‘fruits and tenths, which was granted them by the
‘late Queen *Anne*, and which does not amount to
‘14,000 *l.* a year; the uses to which this fund is
‘appropriated, are the augmentation of all the liv-
‘ings in *England* under 50 *l.* a year; and as it is
‘computed there are above 5500 such livings
‘in *England*, we must conclude, that it will be a-
‘bove 300 years before they can make any proper
‘provision for all those of the clergy, who have not
‘a settled competent provision; and I am sure eve-
‘ry one of your Lordships must think, that it
‘would be a great scandal upon this rich and opulent
‘nation, to leave many of their poor clergy almost
‘in a starving condition for such a great number of
‘years: This, the Parliament which established the
‘corporation, seemed to be fully sensible of, and
‘therefore they enabled them to take donations in
‘land as well as money; and if we are now of the
‘same sentiments, we must be of opinion, that this
‘public charitable fund, like all the rest, is far
‘from being sufficient for the good purpose in-
‘tended.

‘It being thus apparent, my Lords, that every
‘society ought to support the poor, and relieve the
‘distressed members of their society, and it being
‘impossible to do this without proper and sufficient
‘funds

‘ funds for that purpose, therefore it is certain, that
‘ in every well-regulated society, they will endea-
‘ vour, as much and as soon as they can, to esta-
‘ blish such funds: And it being likewise apparent, that
‘ no one of our public charitable funds is sufficient for
‘ the purpose for which it was designed, it must be
‘ inconsistent with good polity at least, to make a-
‘ ny regulation, which will very much retard, if not
‘ intirely prevent the increase of either of them. That
‘ the bill now before us will very much retard the
‘ increase of any one of our charitable funds is evi-
‘ dent; for it puts it out of the power of any man
‘ to give charity at that very time, when all men
‘ are most apt to give charity, which is when they
‘ find themselves drawing near to the gates of death,
‘ and begin to despise those riches and estates, which
‘ they were so fond of, while in health and vigour,
‘ that no consideration could prevail with them to
‘ give away the most inconsiderable part: This of it
‘ self would, in my opinion, be a very great bar to
‘ the leaving of any estate in land to a charitable use;
‘ but to make this prohibition extend to charitable
‘ donations granted either by will or deed, by per-
‘ sons in full vigour and health, and to make them
‘ also void, unless made to take effect in possession
‘ for the charitable use intended immediately from
‘ the making thereof; and also, unless they be made
‘ without any power of revocation, reservation,
‘ trust, condition, limitation, clause or agreement
‘ whatsoever, for the benefit of the donor or gran-
‘ ter, or of any person or persons claiming under
‘ him, will certainly be an absolute bar to the leav-
‘ ing of any land estate to a charitable use; for no
‘ man will in his life-time grant away his estate in
‘ such a manner, even to the most charitable use
‘ he can think of; because, in case he did so, he
‘ might come to want charity himself before he di-
‘ ed, which is a danger no man will expose himself
‘ to; and therefore, unless these words be left out,
‘ I shall

‘ I shall look upon this bill, not as a bill to prevent
‘ the granting of land estates to charitable uses by
‘ will, but as a bill to prevent the granting of land
‘ estates by will or deed, or by any manner of way,
‘ to any charitable use whatsoever ; and I cannot
‘ think our charitable foundations have as yet posses-
‘ sion of such a quantity of land, as to afford the
‘ least shadow of reason for passing such a bill.

‘ But farther, my Lords, with respect to the cor-
‘ poration for the bounty of Queen *Anne*, this bill,
‘ as it stands at present, will not only be an abso-
‘ lute bar to the granting of any land estate to them,
‘ but I am afraid it will be an absolute bar to the
‘ leaving of any legacy in money, or other perso-
‘ nal estate to them ; for as no sum of money, or o-
‘ ther personal estate, to be laid out or disposed of in
‘ the purchase of lands, is to be hereafter given
‘ to any body corporate, except in the terms prescri-
‘ bed by this bill ; and as by the rules of that society
‘ all sums of money given to them, are to be vested
‘ in the purchase of lands, I am afraid all legacies
‘ left to them will be made void, as sums of money
‘ given to be laid out in the purchase of lands ; nay,
‘ I am afraid, if any gentleman should give them
‘ 200 *l.* in money for augmenting any small bene-
‘ fice in his neighbourhood, and should die within
‘ 12 months after, that the corporation would be
‘ obliged to return the 200 *l.* to the gentleman’s exe-
‘ cutors ; therefore I hope, if this bill passes into a
‘ law, some words will be inserted, or some clause
‘ added, for explaining this point in favour of
‘ the corporation ; for I hope we have not so far
‘ changed our sentiments with regard to this cor-
‘ poration, as to make it the least favoured, instead
‘ of being the most favoured charitable foundation
‘ in *England*.

‘ Since the charitable funds we have in this coun-
‘ try, are not sufficient for the good purposes intend-
‘ ed, or for answering those ends which ought to
‘ be

‘ be answered in every well-regulated society, I have
‘ said, my Lords, that it would be inconsistent with
‘ good polity, to make any regulation, by which
‘ the increase of those funds might be retarded, or
‘ perhaps intirely prevented; and this, I think, I
‘ have shewn will be the certain effect of the bill
‘ now before us. To this let me add, that with re-
‘ gard to good polity it signifies nothing, whether
‘ the grant or donation, be a charity in the donor,
‘ or not; therefore we have at present no occasion
‘ to inquire, whether it be a charity or not in a
‘ man, to give to a charitable use, that which he can
‘ no longer possess or enjoy. I shall grant, that a
‘ death-bed charity, or a donation to take place
‘ after a man’s death, has not the same merit with
‘ that charity, which a man gives away in his own
‘ life-time; but even the former is not without its
‘ merit; for if it proceeds from a regard for the
‘ public good, and for the honour of one’s country,
‘ or from a fellow-feeling in the misfortunes of man-
‘ kind, it is certainly highly commendable; and
‘ even, supposing it proceeds from the pride and
‘ vanity of the donor, which we ought not in cha-
‘ rity to suppose, yet as long as our charitable foun-
‘ dations stand in need of any increase, it ought for
‘ the sake of good polity to be encouraged, in all
‘ cases where no real injustice is thereby done to any
‘ particular member of the society.

‘ This, my Lords, naturally leads me to consider
‘ the right which a man’s next heirs or next rela-
‘ tions have, to the estate he has acquired by his
‘ industry and frugality; with regard to which, I
‘ shall grant, that a man is obliged to support his
‘ relations under misfortunes, and even at his death
‘ to leave them wherewithal to support themselves,
‘ in order to prevent their becoming a burden upon
‘ the public; but that he is obliged by any law in
‘ the world, to leave a great and opulent fortune to
‘ every one, or to any one of them, is what I be-

‘ lieve no man will pretend. If a man dies with-
‘ out disposing of his estate, the law, it is true, gives
‘ it to his next relations, according to those rules,
‘ which have been established in each respective
‘ country; but this does not proceed from any right
‘ which the relations had to that estate before the
‘ death of the owner, but from a presumption, that
‘ it was his desire to have his estate so disposed of;
‘ for it is a quality inseparable from property, that
‘ the owner may dispose of it as he pleases; and
‘ therefore, if a man’s relations, or any one of them,
‘ forms an expectation of his estate independent of,
‘ or contrary to his will and intention, it is an un-
‘ just expectation, an expectation, in which he may
‘ disappoint them without being guilty of the least
‘ injustice. They have no natural right to any
‘ greater share of his fortune, than he pleases to be-
‘ queath them, and the giving them any legal right,
‘ would be the cause of a great deal of unnatural
‘ behaviour.

‘ To conclude, my Lords, if a death-bed dona-
‘ tion, or a donation to take place after a man’s
‘ death, proceeds from a sincere regard to the pub-
‘ lic good, or a true sense of the misfortunes and dis-
‘ tresses of our fellow creatures, it is a real charity,
‘ and I must think it both uncharitable and unchris-
‘ tian, to prevent its being granted: And if it pro-
‘ ceeds from the pride and vanity of the donor,
‘ which I hope it seldom does, yet, while our chari-
‘ table foundations stand in need of any increase,
‘ while there is any object of charity in the king-
‘ dom unprovided for, I must think it inconsistent
‘ with good polity, and derogatory to the honour
‘ of the nation, to prevent its being granted: For
‘ which reason, I must be of opinion, that, as a
‘ good christian, and as a good subject, I am obliged
‘ to give my negative to this bill.’

The

The reply was to this effect, *viz.*

‘ My Lords, that our ancestors had many and Reply.
‘ strong reasons for preventing the alienation of
‘ lands in Mortmain, is apparent from the great
‘ care that was taken from time to time, to prevent
‘ all the artifices contrived for evading the established
‘ laws of the kingdom; for no sooner was any new
‘ artifice discovered, than a new law was made for
‘ preventing it in time to come. What particular
‘ reasons they had, besides those we now have, are
‘ not of any significancy in the present question;
‘ but if it were necessary, I could shew, that the par-
‘ ticular reasons mentioned, could never have been
‘ sufficient for such a general prohibition, as we find
‘ established by our ancestors, if they had not like-
‘ wise had under their consideration those general
‘ reasons which now are, and always have been good
‘ reasons against admitting of such alienations. I
‘ mean those reasons, which are founded upon the
‘ security, the aggrandizement, and the happiness of
‘ the commonwealth in general.

‘ With respect to the security of the kingdom, it
‘ is certain that this nation, as well as every other
‘ nation, has always owed its security against foreign
‘ invasions, chiefly to the landed men of the coun-
‘ try, who must necessarily be more zealous in the
‘ defence of their country, than persons possessed
‘ of any other sort of property; because the lands
‘ are always seized upon by the conqueror; whereas,
‘ with regard to those who are possessed of a per-
‘ sonal estate only, if they escape the first plunder,
‘ they are generally left in possession of what former-
‘ ly belonged to them. Now I shall grant, that
‘ the managers of corporations, must be possessed of
‘ some personal estate of their own, but it is not ne-
‘ cessary to suppose, nor can it be supposed, that
‘ they are all possessed of land estates; therefore it
‘ is not to be presumed, they will be zealous in the
‘ defence

‘ defence of their country, for the sake of preserving
‘ the lands belonging to the corporation, as they
‘ would be, did those lands belong properly to them-
‘ selves; and a few indolent or luke-warm managers
‘ might prevent the corporation’s giving any pro-
‘ per assistance to their country, even in a time of the
‘ utmost distress. In the case therefore of a foreign
‘ invasion, it would be of the most dangerous conse-
‘ quence, to have a great part of our lands in the
‘ possession of corporations; and in the case of any
‘ attempt upon our liberties, the consequence would
‘ be fully as dangerous; for the history of the great
‘ charter, upon which the laws of Mortmain are
‘ founded, and many other remarkable events shew
‘ that our noble and ancient families have been the
‘ chief supporters of our liberties; for this obvious
‘ reason, because they are always the first sacrifices
‘ to tyranny; therefore it would be most ridiculous
‘ to admit of an unlimited alienation of lands in
‘ Mortmain, by which it might at last become im-
‘ possible for us to have a noble or ancient family in
‘ the kingdom: Besides we know by experience, that
‘ corporations of all kinds are more easily managed
‘ and influenced by a government, than any equal
‘ number of individuals; and they have upon all
‘ occasions, shewed themselves less jealous of those
‘ steps which seemed to tend towards the establish-
‘ ment of arbitrary power.

‘ Another great danger which is most justly to
‘ be apprehended from too great a liberty of grant-
‘ ing or alienating lands in Mortmain, is, lest any
‘ one particular society should thereby become so
‘ powerful, as to be able to prescribe laws to our
‘ government, and by that means overturn our con-
‘ stitution. This is a danger which seems to be fully
‘ acknowledged by the noble Lords, who have spoke
‘ on the other side of the question; but say they,
‘ this danger is no way to be apprehended, while
‘ our present laws against alienations in Mortmain
‘ continue

‘ continue in force ; because no new purchases can
‘ be made, without a licence from the crown. My
‘ Lords, it is from that very cause that I apprehend
‘ a danger may arise, and if not prevented, may
‘ become unavoidable before it be discovered. The
‘ crown, it is true, had before the revolution assum-
‘ ed a power of granting licences ; but the crown
‘ had never an established unlimited power of grant-
‘ ing licences to purchase or hold in Mortmain, till
‘ the act of the 7th and 8th of King *William* already
‘ mentioned in this debate. While we have the hap-
‘ piness to be under such a wise King as his present
‘ Majesty, we can have nothing to fear ; because a
‘ King who looks into his own affairs, will never
‘ allow any society to become too powerful for him-
‘ self ; but we cannot hope to have always the same
‘ good luck ; and if a King should give himself up
‘ to the sole management of any one favourite, that
‘ favourite may get himself established at the head
‘ of a powerful corporate body or society, and may
‘ then find it proper for his own particular interest,
‘ to make that society as powerful as he can, by
‘ granting as extensive a licence, or as many licences
‘ as they can desire : If such an administration should
‘ continue for any great number of years, the so-
‘ ciety might become so powerful, that it would be
‘ very dangerous for any future minister, or even
‘ for any future King, to refuse them as many more ;
‘ and we know how ready all men, but especially
‘ ministers, are, to comply with any present exigen-
‘ cy, rather than run themselves into immediate
‘ danger, by encountering a growing evil.

‘ In this country, as well as in every other coun-
‘ try, we may look upon all the clergymen of the
‘ established church, to be members of one and the
‘ same society or corporate body ; for though they
‘ are not united by any one royal charter, yet there is
‘ a sort of unity established among them by the laws
‘ of the kingdom, and founded upon an authority

‘ superior to that of any earthly King; from whence
‘ we may suppose, that they will always unite their
‘ force for increasing the power of the society; and
‘ we know by experience how generally, and how
‘ closely they have joined against measures, which
‘ their leaders thought might tend to the diminution
‘ of their power, or towards preventing its increase.
‘ Now, my Lords, suppose we should in some fu-
‘ ture age have a weak Prince upon the throne, a
‘ Prince wholly guided by one favourite, and that
‘ favourite a prelate, who had got the management
‘ of the clergy almost intirely under his direction;
‘ can we suppose that such a King, and such a mi-
‘ nister, would ever refuse to grant a licence to any
‘ ecclesiastical corporation, either single or aggre-
‘ gate; and the certain consequence would, in my
‘ opinion, be, that if such an administration should
‘ continue for any number of years, the temporal
‘ power of the church, by means of their lands and
‘ other possessions, would become as much superior
‘ to the state, as ever it was in any of the ages of
‘ popery and superstition. In such a case, our con-
‘ stitution would be intirely overturned; and though
‘ the present clergymen of our established church
‘ have not generally the least tincture of a persecu-
‘ ting spirit; yet if their successors should get into
‘ their hands the whole power of making laws, as
‘ well as of putting them in execution, it is much
‘ to be feared, that a persecution, or perhaps an in-
‘ quisition, would be set up under the banners of the
‘ church of *England*, as bloody and cruel as any that
‘ was ever set up under the banners of the church of
‘ *Rome*.

‘ Thus, my Lords, I have shewn, that with res-
‘ pect to our established church, it may, by means
‘ of that unlimited power of granting licences to
‘ purchase in Mortmain, now vested in the crown,
‘ become so powerful, as to be able to prescribe
‘ laws to the whole kingdom. But when I talk of
‘ the

‘ the established church, why should I mention the
‘ granting of them any licence from the crown?
‘ They have already, I may say, an unlimited li-
‘ cence by act of Parliament: So forgetful have we
‘ of late been of the maxims of our ancestors, that
‘ we have granted them such licences by law, as
‘ would enable them to purchase in time, the whole
‘ lands of the kingdom, without so much as any
‘ one licence from the crown. By an act of the
‘ 17th of King *Charles II.* every parson and vicar in
‘ *England*, whose settled maintenance does not amount
‘ to 100*l.* a year clear, has got a liberty to pur-
‘ chase lands, to him and his successors, without any
‘ licence in Mortmain, and what is most extraordi-
‘ nary, without stint or controul. Which act of
‘ Parliament by itself alone, with a little manage-
‘ ment, would enable our church to purchase all the
‘ lands in *England*, without being obliged so much
‘ as to ask a licence from the crown; for we have
‘ been told in this debate, that there are in *England*
‘ above 5500 livings under 50*l.* a year, and com-
‘ puting there are 2000 only above 50 and below
‘ 100*l.* a year, we must from thence reckon there
‘ are in *England* 7500 ecclesiastical sole corporations,
‘ who have by that act, a liberty to purchase as great
‘ a quantity of land as they please, without any li-
‘ cence in Mortmain.

‘ Then, my Lords, by a still more extraordinary
‘ act in the late Queen’s time, all the clergymen of
‘ the church of *England*, are in some manner united
‘ into one corporation, and that corporation is not
‘ only enabled to purchase lands in Mortmain, with-
‘ out any licence from the crown, but is provided
‘ with a very large and a perpetual yearly fund for
‘ that purpose; for the first fruits and tenths, settled
‘ upon them by that act, bring in already at least
‘ 14,000*l.* per annum, and will in a very short
‘ time, bring in 20,000*l.* per annum: But farther,

‘ my Lords, lest that happy event of their being
‘ made the masters, and lawgivers of their country,
‘ should be too long postponed, every man in *Eng-*
‘ *land*, nay, every woman in *England*, is by that act
‘ enabled, to give them by deed, and even by will,
‘ the whole estate real and personal, which he or
‘ she may die possessed of, and such estates the cor-
‘ poration are rendered by that act capable to hold
‘ and enjoy without any licence *ad quod damnum*,
‘ and notwithstanding the statute of Mortmain.
‘ And I must particularly take notice, that neither
‘ by that act, nor by any other act, is there a pe-
‘ riod put to the continuance of that corporation: It
‘ is made a perpetual corporation, with leave to take
‘ lands by will, and purchase lands without stint, li-
‘ mitation, or licence, and it is provided with a
‘ large annual and perpetual fund for that purpose:
‘ so that by the very nature of things, as all the
‘ lands they can get hold of, become unalienable,
‘ our church must necessarily at last, by means of
‘ that corporation, become mistress of all the land
‘ estates in *England*. If we consider the many and
‘ powerful solicitors they have about dying persons,
‘ and the present prevailing madness of perpetuating
‘ one’s memory, by leaving a large estate to some
‘ body politic, we must conclude, that unless a stop
‘ be put to it, this event is not at such a distance as
‘ some may imagine; and I must say, the corpora-
‘ tion has established a most excellent rule for this
‘ purpose: They have resolved not to purchase any
‘ thing but land, they have resolved not to con-
‘ tent themselves with any pension or annuity issuing
‘ out of lands, but to be absolute masters of the
‘ lands themselves.

‘ What I have said, my Lords, upon this subject,
‘ is not with a design to throw any reflexion upon
‘ the established church, or to diminish the credit of
‘ our established clergy. No, my Lords, I hope
‘ their

‘ their credit among the people of this kingdom
‘ will always be as considerable as it ought ; but I
‘ hope that credit will always depend, not upon their
‘ possessions, but upon the purity of their doctrines,
‘ and the sanctity of their lives. As I am myself
‘ an unworthy member of the church of *England*, as
‘ by law established, I must love and reverence that
‘ establishment ; and for this very reason, I shall al-
‘ ways be against vesting any great possessions in
‘ the church. I have as great a desire as any man,
‘ to see our clergy all comfortably and honourably
‘ provided for ; but that provision ought not to be
‘ made to arise from possessions of their own, but
‘ from the annual contributions of the people ; for
‘ if ever the clergy of our established church, should
‘ come to be possessed of many and large estates in
‘ land, as the popish clergy of this kingdom for-
‘ merly were, it will be a temptation to some ambi-
‘ tious and enterprising prince, like our *Henry VIII.*
‘ to overturn our established church, in order to get
‘ hold of their opulent possessions. This very thing
‘ was, I believe, one of the chief causes of the re-
‘ formation ; for tho’ most of the common people
‘ had embraced the reformed religion from principle
‘ and a sort of enthusiasm, yet I am persuaded, that
‘ many of our great men embraced the first doc-
‘ trines of the reformation, and joined with their
‘ Prince in getting them established, not from prin-
‘ ciple, but in order to share with him in the spoils
‘ of the then established church ; and as like causes
‘ always produce like effects, therefore as a sincere
‘ member of the present established church, and from
‘ a thorough and true regard to her doctrines, I
‘ shall always be for limiting and restraining her
‘ possessions, especially in land, or any other sort of
‘ revenue but what depends upon the yearly contri-
‘ butions raised by law upon the people.

‘ Now,

‘ Now, my Lords, with respect to the aggran-
‘ dizement and happiness of the commonwealth in
‘ general : Ever since we began to understand any
‘ thing of trade and commerce, it has been an esta-
‘ blished maxim in this kingdom, not to allow our
‘ lands to be settled unalienably even upon private
‘ families, and much less upon bodies politic ; and
‘ the reason of this maxim is very plain ; because
‘ after a man by his industry or trade has saved as
‘ much as puts him above the fears of want, an am-
‘ bition of establishing his family in the kingdom,
‘ then begins to take place ; this raises in him a de-
‘ fire of purchasing some land estate ; and this de-
‘ fire promotes his industry, and makes him conti-
‘ nue his trade : Whereas, if he could have no hopes
‘ of getting any land estate to purchase, which might
‘ be the case, if the greatest part of our lands were set-
‘ tled in Mortmain, he would either give up his trade,
‘ or he would go and establish himself and his family
‘ in some foreign country, where he could purchase
‘ a land estate. From hence it is evident, that the
‘ allowing of any great part of our lands to be settled
‘ in Mortmain, would be a great discouragement to
‘ our trade, upon which the grandeur and happiness
‘ of the nation very much depends, and might rob
‘ us of a great many of our richest merchants. To
‘ this I must add, that nothing has contributed more
‘ to the improvement of our lands, and the beauti-
‘ fying our country, than the great number of gen-
‘ tlemen’s seats we have in every part of the king-
‘ dom ; whereas, if our lands should all become the
‘ property of corporations, our fine country seats
‘ would all go to ruin, and a great stop would be
‘ put to all farther improvement ; for no man will
‘ be at so great an expence or trouble in improving
‘ a leasehold estate, as he would be, were he the
‘ tenant in fee.

‘ I have

‘ I have already shewed, my Lords, how much
‘ we are exposed by our laws, as they stand at pre-
‘ sent, to the danger of having our lands ingrossed
‘ by ecclesiastic corporations, and of what fatal con-
‘ sequence that might be to the security and prefer-
‘ vation of our constitution. With regard to our
‘ lay corporations, as they are not as yet united into
‘ one body, it cannot be said, that our constitution
‘ or government can be in any danger, from any
‘ possessions they may acquire; but the trade and
‘ commerce of the nation, the improvement of our
‘ lands, and the beauty of the country, will be as
‘ much injured by their acquisitions, if they become
‘ considerable, as by acquisitions made by the church;
‘ and it is certain, we have of late years widely de-
‘ parted from the maxims of our ancestors, with
‘ respect to lay corporations as well as ecclesiastic.
‘ The first breach was made by an act of the 39th
‘ of Queen *Elizabeth*, by which any person was ena-
‘ bled, within twenty years then next ensuing, by
‘ deed inrolled in chancery, to erect and found an
‘ hospital or house of correction: And every hospi-
‘ tal so to be founded, was by that act incorporated,
‘ and impowered to purchase lands not exceeding
‘ 200 *l. per annum* without licence, and notwith-
‘ standing the statutes of Mortmain. This extraor-
‘ dinary step was at that time something necessary,
‘ because our poor had then no sort of provision
‘ made for them by law, they had been before that
‘ time taken care of by our monasteries and reli-
‘ gious houses, and were left intirely destitute of
‘ any public support, by the dissolution of those
‘ monasteries and religious houses; but by an act
‘ of the 43d of the same Queen’s reign, the present
‘ method of obliging every parish, hundred, or
‘ county, to provide for their own poor, was esta-
‘ blished; which method, if properly regulated, and
‘ rightly pursued, would, in my opinion, make all
‘ public hospitals useless. But it seems the contrary
‘ opinion

‘ opinion prevailed soon after the revolution ; for
 ‘ in the 7th and 8th of King *William*, that act was
 ‘ passed, by which the crown got an unlimited
 ‘ power of granting licences to alien and take in
 ‘ Mortmain ; and the act was intitled, *An Act for*
 ‘ *the encouragement of charitable gifts and dispositions*,
 ‘ which was, it seems, the pretence made use of for
 ‘ granting that power to the crown, and therefore
 ‘ it was, I presume, a favourite pretence at that
 ‘ time. This has made it very easy to set up any
 ‘ new corporation, and has made it easy for every
 ‘ old corporation, to extend their dominions almost
 ‘ as far as they please ; so that I think we are in
 ‘ danger of having the greatest part of our lands
 ‘ swallowed up by some corporation or other, un-
 ‘ less a stop be put to it in time ; and if ever this
 ‘ should come to be our case, we may then bid
 ‘ adieu to our trade, and to all future improve-
 ‘ ments.

‘ But, my Lords, the danger of having our lands
 ‘ swallowed up by corporations, ecclesiastic or lay,
 ‘ is not the only danger we are at present exposed
 ‘ to ; there is a new sort of Mortmain lately set up,
 ‘ a new gulph opened, under the name of charita-
 ‘ ble uses, which may be said to be without either
 ‘ bottom or bounds, and which will certainly swal-
 ‘ low up that remnant which may be left by the
 ‘ others ; for by the laws, as they stand at present,
 ‘ any person in the kingdom may in his last mo-
 ‘ ments devise his whole land estate in trust for cha-
 ‘ ritable uses ; the representative of the most ancient
 ‘ family in *England*, if he be tenant in fee-simple,
 ‘ may disappoint his natural heirs, and utterly ruin
 ‘ his family by such a devise, and that at a time
 ‘ when very few men can properly be said to be in
 ‘ their right senses. If we consider that all such
 ‘ charities are generally left, or come to be under the
 ‘ management of some one clergyman or another,
 ‘ we must from thence conclude, that we have now
 ‘ the

‘ the same reason to prevent such devises as our an-
‘ cestors had ; for what was the reason of the po-
‘ pish clergy’s watching so insidiously the last mo-
‘ ments of every dying person ? Was it not in or-
‘ der to get some legacy for increasng the riches
‘ and power of the church in general, they having
‘ no private families of their own to solicit for ?
‘ And if the riches and power of our present church
‘ be increased by donations, to what are called
‘ pious and charitable uses, are we not to suppose
‘ that our clergymen will soon begin to watch the
‘ last moments of every dying person, as insidiously
‘ as ever the others did, if we lay a foundation for,
‘ or leave any hopes of success from such watchful-
‘ ness ? The clergy of our church as now established
‘ by law, are but men, and men are in all ages and in
‘ all countries, generally speaking, indued with the
‘ same passions, and the same affections : It is edu-
‘ cation and opportunity only, that makes the diffe-
‘ rence. The opportunity is already given, and
‘ their education will soon begin to be turned to-
‘ wards making the best of that opportunity, if not
‘ speedily prevented. Arguments for such donations
‘ will never be wanting, when men are pinched by
‘ the messengers of death : Nay, many weak men
‘ may at such a time be made to believe, that such
‘ a donation will be an atonement for a whole life
‘ spent in wickedness and oppression.

‘ Having thus laid before your Lordships, the
‘ dangers to which we are now exposed, by having
‘ departed from the maxims of our ancestors in re-
‘ lation to Mortmain, give me leave to examine a
‘ little the reasons which have lately prevailed for
‘ exposing ourselves to such dangers. The pretence
‘ is piety and charity ; but if it should come out,
‘ that there is neither piety nor charity in erecting
‘ such magnificent and rich hospitals, I hope we will
‘ then begin to think, there is not the least shadow
‘ of reason for our leaving the nation exposed to any
‘ danger

‘ danger upon that account. True piety and real
‘ charity are virtues highly commendable, they are
‘ virtues which I shall always esteem and encourage
‘ as much as lies in my power. To assist the widow
‘ and fatherless, to nourish the tender infant, and
‘ succour the helpless old ; in short, to relieve the
‘ poor and distressed, who cannot provide for them-
‘ selves, is a duty incumbent upon every society, as
‘ well as upon every private man : But, my Lords,
‘ this duty is to be discharged with great caution,
‘ and with great circumspection ; for if we mistake
‘ the object of our charity, if by giving what we
‘ call charity we encourage laziness, idleness, and
‘ extravagance, in the persons to whom we give it,
‘ or in others, the action is so far from being pious,
‘ charitable, or commendable, that it becomes im-
‘ pious, ridiculous, and injurious to our native coun-
‘ try. This, my Lords, is the footing upon which
‘ we ought to place the present debate ; the dispute
‘ is not about providing for our poor, but about the
‘ manner in which they ought to be provided for.
‘ If I thought, my Lords, that any real object of
‘ charity in the kingdom would, by this bill, be
‘ disappointed of that relief which the nation ought
‘ to give, or he had any title to expect, I should
‘ be for rejecting it with the utmost indignation ;
‘ but the scope of the bill I take to be, to prevent
‘ men from ruining their families for the sake of
‘ establishing such charitable funds as I am sure never
‘ will, nor ever can, be properly applied.

‘ I shall readily admit, my Lords, that the poor
‘ cannot be relieved in a public way, without a pub-
‘ lic fund for that purpose ; but I am surprised to
‘ hear it said, that we have not in this nation a pub-
‘ lic fund sufficient for the relief of all the objects
‘ of charity that are now, or ever can be in this
‘ kingdom, unless our lands should be all swallowed
‘ up by corporations and charitable uses. Do not
‘ we know, that by the laws relating to the poor,
‘ every

‘ every parish is obliged to support and relieve their
‘ own poor ; and if any one parish should, by some
‘ extraordinary misfortune, be disabled from doing
‘ so, the whole hundred must be taxed for that pur-
‘ pose : Nay, if the hundred should be unable, the
‘ whole county must be taxed : And thank God,
‘ there is not as yet a county in *England* but what is
‘ sufficiently capable of maintaing their own poor ;
‘ but even if such a case should happen, we have a
‘ method provided for supplying the deficiency,
‘ which is by granting of charitable briefs ; by
‘ which method we may bring the whole nation in
‘ aid. It is not therefore for want of a public fund
‘ sufficient for all charitable purposes that hospitals
‘ have been set up : The setting up of them must
‘ have proceeded from some other cause ; but let the
‘ cause be what it will, it is certain they have in-
‘ creased prodigiously within this last century ; so
‘ that we have now in this nation two methods of
‘ providing for our poor, one by putting them into
‘ those hospitals founded for that purpose, and the
‘ other by obliging their respective parishes to take
‘ care of them ; and which of these methods is the
‘ best, will appear by considering the state and na-
‘ ture of mankind.

‘ It is certainly the interest of every society to en-
‘ courage industry and frugality among their people,
‘ especially those of the poorer sort, and as most
‘ men are compelled to be industrious and frugal by
‘ necessities, it is not therefore prudent in any state
‘ to prevent, in any great measure, all those neces-
‘ sities. The support of nature is what forces every
‘ poor man to labour, and he may perhaps supply
‘ this necessity by working hard two or three days
‘ in a week ; so that if he were under no other ne-
‘ cessity, he would probably sit idle all the rest of
‘ the week ; but then every prudent man considers,
‘ that while he is in vigour and health, he ought to
‘ provide for old age and sickness ; and every man,
‘ who

‘ who has any natural affection or compassion, will
‘ provide for his children, and even for his relations
‘ and friends in distress, in the best manner he can :
‘ The making of a provision for old age, for sick-
‘ ness, for the education of children, and for assist-
‘ ing friends in distress, are therefore the necessities
‘ that compel most of our poor to labour hard all
‘ the days of the week, and to save what they have
‘ earned by their labour ; but if you give a man any
‘ hopes of being well provided for in his old age or
‘ sickness, or of having his children educated and
‘ his friends relieved, in as handsome a manner as
‘ he can desire, without putting him to any expence,
‘ I believe there is not one of a hundred will either
‘ labour so hard, or live so frugally as he would
‘ otherwise have done: For this reason, great care
‘ ought to be taken not to give men hopes of being
‘ supported in old age or sickness, or of having
‘ their children educated for them, or their friends
‘ relieved, unless they can shew, that by some mis-
‘ fortune they were rendered incapable of making any
‘ provision for those necessities by their own industry
‘ and frugality ; for wherever a man neglects to do
‘ so, when it is in his power, he can never be a real
‘ object of charity, he deserves to suffer, and the
‘ public good requires he should, in order to be an
‘ example and a terror to others.

‘ From hence, my Lords, we must conclude,
‘ that no person can be deemed a proper object of
‘ charity, till after his circumstances and former be-
‘ haviour have been strictly inquired into ; and whe-
‘ ther the parish officers within their respective pa-
‘ rishes, or the governors and officers of an hospi-
‘ tal, are most capable of doing this, is very easy to
‘ determine. The parish officers are generally them-
‘ selves all acquainted with the person that makes the
‘ application, and can from their own knowledge
‘ judge if he be a proper object ; they contribute out
‘ of their own pockets, yearly, their share of that
‘ charity

‘ charity which is given, and are answerable to the
‘ parish for what they do, therefore they certainly
‘ will always be extremely cautious of giving a share
‘ of the parish charity to an unworthy object, or to
‘ one who does not stand in need of it: On the o-
‘ ther hand the governors of hospitals are never all
‘ acquainted with the person that applies, seldom a-
‘ ny of them are; and as they pay nothing out of
‘ their own pockets to the charity they have the ma-
‘ nagement of, nor are answerable to any for their
‘ conduct, they are very seldom inquisitive about
‘ the merits or the circumstances of the persons that
‘ apply; the consequence of which is, that many un-
‘ worthy persons, and many who do not stand in
‘ need of it, are admitted into our hospitals; which
‘ instead of being a benefit, is a great injury to the
‘ nation, because it encourages idleness and extrava-
‘ gance among the vulgar.

‘ I wish with all my heart that all the poor of the
‘ kingdom, who are real objects of charity, were
‘ properly and decently provided for. I am sure
‘ if they are not, it is not for want of a sufficient
‘ fund for that purpose; it must be by some defect
‘ in the laws, with respect to the management and
‘ application of that fund, and whatever amendments
‘ may be necessary in that respect, I shall readily
‘ agree to. But we ought to take care, that some
‘ sort of ignominy or contempt may always attend
‘ a person’s being provided for by any public cha-
‘ rity; and we likewise ought to take care, that the
‘ provision made by charity shall not be such as no
‘ poor man, by his utmost industry and frugality,
‘ can provide for himself. In both these respects, I
‘ am afraid, our public hospitals are blamable; for
‘ the custom of going thither upon every emergency
‘ is become so frequent, that no contempt or igno-
‘ miny attends it; and the provision made for our
‘ poor in some of them, is much better than any
‘ common tradesman or labouring man can well
‘ hope

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‘ hope to make for himself, with the utmost indu-
‘ stry and frugality any poor man can practise. The
‘ consequence of this is, that the getting into an hos-
‘ pital or getting one’s child to be educated there,
‘ instead of being asked for as a charity, comes to
‘ be solicited for as a post or employment; and rich
‘ men get in to be governors of hospitals, not with
‘ the pious view of making an interest in the next
‘ world by works of charity, but with the ambitious
‘ view of making an interest in this, by having so
‘ many posts or preferments at their disposal. This
‘ last view, I am apt to suspect, is the true source
‘ of that spirit which has been lately raised for erect-
‘ ing and endowing hospitals; and as it is well
‘ known what sort of men are generally the chief
‘ directors and managers of such hospitals, we may
‘ easily guess who have been the principal authors
‘ and promoters of such a spirit. An inquiry into
‘ the management of our several hospitals would
‘ have been of great use in this debate. If we had
‘ made such an inquiry, I am persuaded we should
‘ have found many persons upon such foundations,
‘ who never had a title to, and many who never
‘ had an occasion for the charity of the public;
‘ and if we had examined into the motives for ad-
‘ mitting such persons, I am also persuaded, we
‘ would have found them very far from being cha-
‘ ritable. Such misapplications can never happen
‘ in the disposal of parish charities; and as the
‘ admitting of such persons to a share of any
‘ public charity, will always be a great encou-
‘ ragement to laziness and extravagance, I can see
‘ no reason for exposing the nation to any dan-
‘ ger, for the sake of erecting such charitable foun-
‘ dations.

‘ We know, my Lords, how apt men are to
‘ indulge themselves in laziness and extravagance,
‘ from very chimerical hopes: A benefit ticket in
‘ a lottery can fall but to one, but the expectation
‘ of

‘ of it makes hundreds extravagant. In the same
‘ manner, if people see one idle and profligate per-
‘ son well provided for in an hospital, or the child
‘ of such a man handsomely educated, and better
‘ taught than the children of poor people usually
‘ are, hundreds of them will, in hopes of meeting
‘ with the same relief, either live idly, or spend
‘ what they earn extravagantly, so that most of
‘ them, or at least their children, must come upon
‘ the parish at last. This must, of course, increase
‘ the number of our poor, and the burden upon e-
‘ very parish; and this consequence, my Lords, is
‘ fully confirmed from daily experience; for there
‘ is no nation in the world that has so great, or so
‘ many public foundations for relieving the poor
‘ as we have in *England*; and yet our people pay
‘ yearly more for that purpose than is paid by the
‘ poor of any other country. In *Holland*, where
‘ the poor are so well taken care of, they have few
‘ or no public hospitals, but every town takes care
‘ of its own poor, and have proper workhouses and
‘ little hospitals for that purpose, where none but real
‘ objects are admitted; and if we had in every pa-
‘ rish a workhouse and an hospital, and no public
‘ hospital in the kingdom, I am persuaded our poor
‘ would not be so numerous, and those that are real
‘ objects would be generally better provided for than
‘ they are at present; for the greatest objects are ge-
‘ nerally left upon the parish, while unworthy per-
‘ sons, or persons who stand in no need of it, are
‘ admitted into our rich and magnificent hospitals.
‘ This is a grievance which cannot be prevented by
‘ the utmost diligence and application of the gover-
‘ nors, who are generally of too high a rank for hav-
‘ ing any acquaintance among the vulgar; they must
‘ depend upon information, they cannot depend up-
‘ on their own knowledge, and those who depend
‘ upon information will often be deceived.

‘ I beg pardon, my Lords, for having taken up
‘ so much of your time upon this subject; but the
‘ words piety, charity, and the relief of the poor,
‘ have been made so much use of in this debate, that I
‘ thought it absolutely necessary to explain that mat-
‘ ter; and from what I have said I hope it will ap-
‘ pear, that no charity ought to be given without
‘ proper inquiry: That such an inquiry may be made
‘ by parish officers; but never will, nor ever can
‘ be made by the managers of public hospitals;
‘ and that we have in this kingdom a sufficient
‘ fund for all real objects of charity without any
‘ public hospital; from whence I think it must
‘ be concluded, at least, that we ought not to
‘ leave our lands in danger of being swallowed up,
‘ the constitution overturned, and the nation un-
‘ done, for the sake of erecting and endowing such
‘ hospitals.

‘ With respect, my Lords, to the clergy of the
‘ established church, I am really sorry to hear there
‘ are so many of them so poorly provided for: It
‘ gives me a most affecting concern to think, that
‘ there are so many pious and worthy clergymen of
‘ the established church struggling with poverty and
‘ want, at the same time that they are rendering such
‘ services to their country; and I must think it a
‘ blemish in our constitution, at least in that part of
‘ it which is called the established church, to have so
‘ many of its members living in the greatest penury
‘ and distress, while a great number of others are
‘ wallowing in the greatest affluence and ease; for
‘ since they are all the servants of the public, and
‘ are paid by the public, every man ought to have
‘ a proper share of the public rewards. Let us but
‘ compare our conduct in this respect to the conduct
‘ of a private family: Suppose any one of your
‘ Lordships, or the master of any great family,
‘ should give large and extravagant wages to his
‘ stewards, his masters of the horse, his master cook,
‘ and

‘ and his other superior servants, but at the same
‘ time should have all his lower servants, who did
‘ the whole business of his family, kept in rags, half
‘ starved, and without shoes or stockings. Would
‘ not every man blame the œconomy of such a fami-
‘ ly? Would not every man find fault with the con-
‘ duct of the master? How then can we justify our own
‘ conduct with respect to the clergy of our establish-
‘ ed church? We find it is generally condemned;
‘ every man admits, our poor clergy ought to be
‘ better provided for; and for this purpose the cor-
‘ poration for the bounty of Queen *Anne* was esta-
‘ blished: The design of that corporation was cer-
‘ tainly to be highly approved of; but I cannot say
‘ the rules they have laid down for accomplishing
‘ that design deserve so much approbation. They
‘ are to provide in two or three centuries for all our
‘ poor clergy; but how? By settling a great part of
‘ the lands in the kingdom in mortmain, which to
‘ me is the same as if the master of the family I
‘ have mentioned, should resolve to provide for his
‘ lower servants, by selling off or mortgaging a part
‘ of his estate yearly; which would, I am sure, be
‘ adding madness to foolishness. What then must
‘ he do? Is not the method he ought to take, plain
‘ and easy? Ought he not to diminish the salaries of
‘ some of his upper servants, or dismiss some of them,
‘ and apply their salaries to increasing the wages of
‘ the inferior?

‘ I am not, my Lords, of any levelling princi-
‘ ples; I am for keeping up the same orders and
‘ distinctions, and the same form of government we
‘ now have in our established church; but I am not of
‘ opinion that it is necessary, or that any man ought
‘ to have, or can deserve half a dozen rich benefi-
‘ ces at once; and a few scrapings might, in my o-
‘ pinion, be taken from many of our great livings,
‘ after the deaths of the present incumbents, which

‘ would be sufficient for establishing a proper main-
‘ tenance for every clergyman in *England*. Nay,
‘ even the fund settled upon the corporation for the
‘ bounty of Queen *Anne*, if it were immediately
‘ parcelled out among the poorest livings, it would,
‘ I believe, go near to make every living in *England*
‘ worth 20*l. per annum*; and if to this we should
‘ add all those benefices which are of no use to the
‘ nation, nor any way necessary for the support of
‘ our present form of church government, I am
‘ sure we could very easily make a handsome provi-
‘ sion for every clergyman in the kingdom, without
‘ endangering our constitution, by throwing too
‘ great a part of our lands into the hands of the
‘ church. Let us consider what a great revenue our
‘ church is already possessed of. I have been in-
‘ formed, that in a posthumous work of a late re-
‘ verend Prelate, who never had a fault laid to his
‘ charge, but that of being too high a churchman,
‘ it is asserted, that the revenue of our church a-
‘ mounted then to two millions and a half yearly,
‘ and that the whole business was done by those who
‘ receive the half million only. I am sure our
‘ church revenue is increased since that time, and if
‘ what that reverend Prelate asserts be true, I am
‘ sure it is high time for us to put some stop to their
‘ making any new acquisitions in land; especial-
‘ ly, considering that our poor clergy may be all
‘ handsomely provided for, without allowing any
‘ more of our lands to be settled in mortmain, or
‘ making any addition to the revenues of the church
‘ in general.

‘ This is an opinion, my Lords, which every lay-
‘ man must be of, who considers the consequences of
‘ things. We may easily calculate what a vast land
‘ revenue must be added to the church by the rules
‘ the corporation for Queen *Anne*’s bounty have esta-
‘ blished. They have laid it down as a rule, that
‘ all our poor clergy must be provided for by pur-
‘ chases

chases of land in mortmain. We have been told that there are in *England* 5500 livings under 50*l.* a year, and of these 1000 under 10*l.* a year; Suppose them then, one with another, worth 25*l.* *per annum* each; a land revenue of 412,500*l.* *per annum* must therefore be purchased, in order to make them 100*l.* a year each. Then suppose there are 2000 livings above 50 and under 100*l.* a year; if we take them at a medium, which is 75*l.* *per annum* each, a new land revenue of 50,000*l.* a year must be purchased, in order to make them likewise 100*l.* each. But, my Lords, I must beg you will consider, that even when this is done, the corporation is not to be dissolved, nor are any of the powers and privileges they now have, to cease; they may then resolve to make all these 7500 livings worth 200*l.* a year each; for this purpose new purchases of land must be made to the amount of 750,000*l.* a year; and when this is done, they may, for what we know, resolve to make every living in *England* worth 1600*l.* or 2000*l.* *per annum*, if there were land enough in the *British* dominions for answering such a demand. For this purpose they would stand in need of no new powers, nor any privileges but what they have already vested in them by law; and I must say, the rule they have laid down for augmenting first those livings, where any layman will join with them, is most excellently calculated for the speedy execution of such a scheme; because a young man in orders, who has 500*l.* or even 1000*l.* fortune, or a father who has a son to provide for, may easily be induced to join his whole fortune to the 200*l.* advanced by them, in order to make a living of 40*l.* a year worth 90 or 100*l.* a year, upon condition of his getting a presentation to the living. I do not in the least suspect that the present governors of this corporation have any

‘ such scheme in their thoughts; but men’s schemes
‘ generally grow with their fortunes; and as this
‘ scheme may some time or other be formed by am-
‘ bitious clergymen, and may in time be carried in-
‘ to execution, we ought to take measures for pre-
‘ venting it, before it becomes too late; for if our
‘ church should get into their possession 4 or
‘ 500,000*l.* a year land revenue, artfully purcha-
‘ sed, more than they now have, I am afraid it
‘ would be out of our power to prevent their pursu-
‘ ing any scheme they had a mind; or at least,
‘ that we could not put any stop to their schemes
‘ without running the risque of raising the flames of
‘ a civil war in the kingdom. I therefore think the
‘ rule they have laid down, of laying out no mo-
‘ ney but upon the purchase of lands, ought to
‘ be altered, and if that rule be altered, there is no
‘ occasion for altering or explaining any words in
‘ this bill.

‘ Having now, my Lords, shewn the dangers
‘ that may arise from the great liberty lately intro-
‘ duced of alienating lands in mortmain, and having
‘ shewn that we are under no necessity, nor have the
‘ least occasion, for exposing ourselves to such dan-
‘ gers, I shall next beg leave to take notice of that
‘ unbounded liberty of devising estates by will, which
‘ we have heard so strongly insisted on. I shall
‘ grant, that a man has a natural right to dispose of
‘ his own, at what time, and in what manner he
‘ thinks most proper; but this rule is not without
‘ any limitation or exception; it must always be
‘ under this restriction, that no man shall dispose
‘ of his own to the hurt and prejudice of the society
‘ to which he belongs; and it is reasonable it should
‘ be so, because the acquisition, or at least the pre-
‘ servation of that property depended and must al-
‘ ways depend upon the protection he received from
‘ the society. The legislators of every society, are
‘ the only judges of what may or may not tend to
‘ the

‘ the hurt and prejudice of the society : According
‘ to their judgment in this respect, they have a
‘ power to make laws for regulating and restraining
‘ that natural right which every man has to dispose
‘ of his own ; and if those laws be reasonable and
‘ necessary for the preservation of the society, eve-
‘ ry good subject will observe them, and no bad
‘ subject ought to be allowed to find fault with, or
‘ transgress them. I think I have made it evident,
‘ that a liberty of devising land estates in mortmain
‘ to any corporation, or upon any pretence whatso-
‘ ever, may be hurtful to the society ; and par-
‘ ticularly, that those pretences drawn from piety,
‘ charity, and a compassion for the poor, are so far
‘ from being real, that they are made use of only as
‘ a cloak for the vanity, the pride, and the ambi-
‘ tion of private men, who have got into, or expect
‘ to get into the Management of what they call cha-
‘ ritable foundations.

‘ With regard to private life, my Lords, can we
‘ suppose that a man will be less industrious or frugal
‘ because he cannot dispose of his estate by will to
‘ the church, or to a magnificent hospital ? We may
‘ as well suppose that he will be less industrious or
‘ frugal, because he cannot dispose of his estate to the
‘ Grand Seignior, or the Sophy of *Persia*. If a man
‘ happens to fall into that delirious ambition of erect-
‘ ing a palace for beggars, and having his name en-
‘ graved in gilded letters above a superb portico ; or
‘ if he grows ambitious of having his estate set up in
‘ the area of any charitable palace already erected,
‘ cannot he give some part of his estate in his life-
‘ time for that purpose, and reserve a sufficient estate
‘ for supporting himself ? For we generally find that
‘ the men who are seized with such deliriums, are
‘ men of great fortunes and small expence ; so that
‘ the reserving a competency for their own future
‘ support, cannot occasion any great diminution in
‘ the donation they make, nor can it disappoint the
‘ great

‘ great end of their ambition. As to the regard
‘ and attendance which a dying man may expect,
‘ and ought to meet with from his relations, friends,
‘ and servants, I think nothing can be better con-
‘ trived than the bill now before us, for preventing
‘ a man’s being disappointed in so just an expectation;
‘ because it lays every landed gentleman under a
‘ necessity of reserving something to be disposed of
‘ by him at his death, and likewise lays him un-
‘ der a necessity of disposing of that something
‘ among his relations, friends, or servants, or of
‘ leaving it to his next heirs. For this very reason,
‘ I think the words at the end of the first clause pro-
‘ posed to be left out, are absolutely necessary; and
‘ therefore I hope they will be left standing a part
‘ of this bill.

‘ Whether a man’s next heirs have any natural
‘ right to succeed to his estate after his death, is not
‘ the question now before us: I hope it will be
‘ granted, they have at least a more natural right
‘ than any other person natural or political; and I
‘ am sure the giving or leaving it to them, or to a-
‘ ny other persons natural, is more charitable than
‘ the giving it to any charitable use or corporation
‘ whatsoever; because, when the estate comes to
‘ private persons, they will be enabled to contribute
‘ the more to the parish charities in the respective
‘ parishes they belong to, which are the only chari-
‘ ties that are, or ever can be properly or justly ap-
‘ plied; whereas, when the estate is given to any
‘ other charitable use, or to any corporation, or even
‘ to the church, the donor may expect and depend
‘ upon it, that the donation will be misapplied;
‘ and every such donor may see, that the giving of
‘ any such donation, may be of dangerous conse-
‘ quence to his religion as well as his country. There-
‘ fore, as a sincere christian, as a true lover of the
‘ church of *England*, without being an admirer of
‘ eccle-

‘ ecclesiastical power, and as a good subject, I must
‘ be for laying, at least, that restraint upon such do-
‘ nations, which is proposed by the bill now before
‘ us. And one of my chief reasons for being so, is,
‘ my Lords, lest the clergy of our established church
‘ should be tempted and instructed to watch the last
‘ moments of dying persons, as insidiously as ever
‘ the monks and friars did in the darkest times of
‘ popery and superstition: The opportunity is esta-
‘ blished by the laws as they stand at present; they
‘ may, by so doing, increase the wealth and the
‘ power of the church, nay, they may increase the
‘ revenue of their own particular cure, and if ever
‘ we should have an ambitious clergyman for a
‘ prime minister, it would be the only way to ac-
‘ quire an interest at court, or preferment in the
‘ church. These were all the motives the popish
‘ clergy had for being so insidious, they never propo-
‘ sed by such insidiousness, to enrich their own pri-
‘ vate families; and if this stumbling block should
‘ be left any longer in the way of our present church,
‘ we may depend on it, that new doctrines will be
‘ set up, and all the ensnaring tenets of the church of
‘ *Rome* revived by degrees, and strongly recommend-
‘ ed by all pastoral instructions.

‘ I shall conclude, my Lords, with observing that
‘ our two universities, and the colleges now excepted
‘ out of this bill, are, in my opinion, the only pub-
‘ lic foundations which are either useful or necessary
‘ in this kingdom, and the exception, as to them,
‘ furnishes me with a particular argument in favour
‘ of this bill; because I think it will contribute great-
‘ ly to increasing the revenues of every one of those
‘ foundations; for as every other channel for death-
‘ bed devises, will from henceforth be shut up, I
‘ must think it will cause the more to flow into that
‘ channel. The pride and ambition of men, which
‘ I suppose, and, since our poor are all sufficiently
‘ provided for otherwise, I think I may, without
‘ any

‘ any breach of charity, suppose to be the chief mo-
 ‘ tive for all donations to hospitals or incorporate bo-
 ‘ dies, will still remain the same ; and those who
 ‘ cannot upon their death-beds propose to eternise
 ‘ their memories by procuring their statues to be set
 ‘ up in the area of an hospital, will endeavour to get
 ‘ it set up in the area of a college, and for that pur-
 ‘ pose will leave them an estate. This is turning the
 ‘ passions of private men to that which is most use-
 ‘ ful and necessary for the society, which is one of
 ‘ the chief ends of all political regulations. Therefore,
 ‘ my Lords, as a friend to our universities and other
 ‘ seminaries of learning, and from the great desire
 ‘ I have to encourage learning, and to see all learned
 ‘ men sufficiently provided for, I must declare my
 ‘ approbation of the bill now under our consideration.’

Petition a-
 gainst smug-
 gling.

ON *Wednesday* the 10th of *March*, a petition
 of the druggists, grocers, chinamen, and o-
 thers, dealers in tea, was presented to the house of
 Commons, and read ; setting forth, ‘ That the
 ‘ petitioners were induced to hope that the in-
 ‘ terest of the fair trader in tea would have been ef-
 ‘ fectually secured by an act passed in the 10th year
 ‘ of his late Majesty, by which an inland duty of
 ‘ 4 s. per pound was laid on all tea, without distinc-
 ‘ tion of quality ; but notwithstanding the regulations
 ‘ made by that act, and the many penalties the
 ‘ smugglers of tea and their accomplices were liable
 ‘ to by law, the petitioners had fatally experienced,
 ‘ the clandestine importation of that commodity was
 ‘ so far from being prevented, that it was carried on
 ‘ to such a degree, that the petitioners had the
 ‘ strongest reason to believe, near one half of the
 ‘ tea consumed in this kingdom paid no duty ; and
 ‘ that the very high duty of 4 s. per pound, as well
 ‘ as the inequality of its being laid, were the princi-
 ‘ pal foundations of the pernicious practice of smug-
 ‘ gling, the coarser sorts bearing much too great a
 ‘ proportion

‘ proportion of the said duty, and by the smugglers
‘ bought abroad at one third of the price it would
‘ stand the fair trader in at home ; and that unless
‘ some remedy should be applied, effectually to pre-
‘ vent that known evil, the petitioners and all fair
‘ traders would be under extreme difficulties in car-
‘ rying on their trade, by reason of the disadvantages
‘ they were under, from the practices of smuggling,
‘ as well as from the hardships they endured, and
‘ the trouble they were put to, by the execution of
‘ the said act ; and that the petitioners conceived
‘ the most effectual means of putting a stop to the
‘ clandestine importation of tea would be, to alter
‘ the duty of 4 s. per pound to a certain rate *ad*
‘ *valorem*, according to the prices tea should sell for
‘ at the *East-India* company’s sale ; by which alte-
‘ ration, the petitioners apprehended, the amount
‘ of the duty to the public would be equivalent,
‘ considering, the quantity, before that time frau-
‘ dulently imported, would be then added to the re-
‘ venue ; and therefore, for the preservation of that
‘ trade to the petitioners, by putting an end to the
‘ practice of smuggling, and for securing a revenue
‘ to the public, by the importation of that commo-
‘ dity in *British* ships from *China* and other parts of
‘ *India*, and for preventing any money being sent
‘ to neighbouring countries for the purchase of tea
‘ to be clandestinely imported and consumed in this
‘ kingdom, praying the house to take the premises
‘ into consideration, and give the petitioners such re-
‘ lief, as to the house shall seem meet.’

Upon the presenting of this petition, it was resol-
ved *Nemine Contradicente*, That that house would,
upon that day sevensnight, resolve itself into a com-
mittee of the whole house, to consider of the most
effectual means to put a stop to the great and grow-
ing evil arising from the unwarrantable and illegal
methods of importing tea and other goods into this
king-

Petition re-
ferred to a
committee.

kingdom ; and the said petition was ordered to be referred to the consideration of the said committee.

Smuggling
bill brought
in and passed.

Accordingly, on the 16th of *April*, the house resolved itself into the said committee, and the report being immediately made to the house, leave was given to bring in a bill, for the purposes resolved on by the committee, and Sir *Charles Turner*, Mr. Chancellor of the *Exchequer*, Mr. *Doddington*, Sir *George Oxenden*, the Lord *Sundon*, Mr. Attorney General, Mr. Solicitor General, Mr. *Scrope*, and Mr. *Edward Walpole*, were ordered to prepare and bring in the same. And on the 3d of *May*, Sir *Charles Turner* presented the same to the house, being intitled, ‘ A bill for indemnifying persons, who have been guilty of unlawful importing goods and merchandize into this kingdom, upon the terms therein mentioned, and for enforcing the laws against such importation for the future,’ and the same was then read the first time, and ordered to be read a second time.

The next day this bill was read a second time, and committed to a committee of the whole house ; and on the 7th, 10th, and 11th, it passed through the committee, where many amendments were made to it, which were reported on the 12th, and most of them, with amendments to some, were agreed to by the house ; but some of the amendments made by the committee were disagreed to ; and after the house had likewise made some amendments to this bill, it was, with the amendments, ordered to be ingrossed. On the 14th, the said bill was read a third time, after which it was resolved, upon a division of 88 to 39, that the bill should pass ; and Mr. Attorney General was ordered to carry the bill to the Lords, and desire their concurrence.

Objections
against the
bill.

Although this bill did not meet with that struggle and opposition in the house of Commons, which was at first expected ; yet several exceptions were
taken

taken, both to the general scope of the bill, and to some of the particular clauses. With respect to the bill in general, it was said, ‘ That it was very extraordinary to see such a petition followed by such a bill : The petition, was a petition from many merchants and shop-keepers, complaining of too high a duty upon a certain sort of merchandize, and of the hardships they were subjected to, by the laws lately made for collecting that duty : Upon the foundation of that petition, a bill had been brought in, which no way diminished the duty, and instead of relieving the merchants from any of the hardships they were before exposed to, it laid them under many new hardships, never before heard of in this country, and such, as they thought inconsistent with the liberties of the people: This they said was a method of proceeding, by which they were afraid, the subject would be terrified from ever making an application to Parliament, for being relieved against those grievances, they thought they had reason to complain of ; for no man would ever apply to Parliament for relief, if he could have the least suspicion, that his case might be rendered more intolerable by any such application.’

To this it was answered, ‘ That the frequent and general practice of smuggling, was the grievance which the petitioners chiefly complained of, and was a grievance, which all fair traders had great reason to complain of ; therefore, any effectual method for preventing smuggling, would be a relief from the grievance chiefly complained of, and this being the scope and design of that bill, it was a proper consequence of such a petition: That the duties complained of, were engaged for the payment of old debts, or for the support of the government, and could not therefore be lowered, without replacing them by establishing some new fund

Answer.

‘ fund, which could not then be done ; and that
 ‘ none of the pains and penalties to be inflicted by
 ‘ that bill, could be any hardship upon fair traders,
 ‘ but only upon smugglers ; and the more hardships,
 ‘ difficulties, and dangers, they were exposed to, the
 ‘ better it would be for the fair trader.’

Particular
 clauses ob-
 jected to.

With respect to the particular clauses, we shall take notice only of the objections made to that clause by which it is enacted, ‘ That any ship, not
 ‘ exceeding the burden of 100 tons, shall be for-
 ‘ feited and lost, if she should take in from another
 ‘ vessel at sea, within four leagues of the *British*
 ‘ coasts, any foreign goods, wares, or merchandizes,
 ‘ without payment of the customs, unless in case of
 ‘ apparent necessity ;’ and to that clause by which it is enacted, ‘ That all goods found concealed in any
 ‘ ship or vessel, at any time after the master thereof
 ‘ shall have made his report at the custom-house,
 ‘ and which shall not be comprised or mentioned in
 ‘ the said report, shall be forfeited and lost.’ With regard to the first clause, it was said, ‘ That it would
 ‘ be a most terrible hardship upon the owners of any
 ‘ ship, to make them forfeit their ship, only because
 ‘ of the captain’s, or perhaps some of the sailors,
 ‘ taking a pound of tea, or an anchor of brandy,
 ‘ rum, or arrack, from on board another ship they
 ‘ accidentally met with at sea : That in penal laws
 ‘ great care ought always to be taken, not to sub-
 ‘ ject any man to a penalty or forfeiture, except
 ‘ such as were really guilty ; but by that clause, the
 ‘ owners of a ship were to be subjected to a great
 ‘ forfeiture, though they neither were, nor could be
 ‘ any way guilty of, or so much as privy to, the
 ‘ crime for which that forfeiture was inflicted ; and
 ‘ the hardship upon them was the greater, because it
 ‘ would be impossible for them to guard against it ;
 ‘ for every one knew, that, for the most part, the
 ‘ command of merchant ships was given to gentle-
 ‘ men

‘ men who had no fortunes in the world, and there-
‘ fore could not make good to the owners, the da-
‘ mage they might sustain by the forfeiture of their
‘ ship: The owners of ships never looked for any
‘ thing more in a master, but the character of an
‘ honest careful man, and an expert sailer; but in
‘ this case, neither of these qualities could be a safe-
‘ guard to the owners, because their ship might be
‘ forfeited and lost by the knavery, perhaps by the
‘ treachery of any common sailer on board, with-
‘ out any fault in the master:’ To this it was added,
‘ That the estates vested in shipping, were already
‘ liable to so many penalties and forfeitures by our
‘ custom-house laws, and were subject to so many
‘ dangers from other accidents, and the employing
‘ of any estate in that way, was in itself of so little
‘ advantage to the owner, that many gentlemen had
‘ already withdrawn their fortunes from that branch
‘ of trade; and if that clause should pass into a
‘ law, no man who had a regard to his family would
‘ employ or continue any part of his estate in that
‘ branch; which would certainly be a great disad-
‘ vantage to our shipping, and a great discourage-
‘ ment to our seamen.’

As to the other clause, it was said, ‘ That a mer-
‘ chant might thereby forfeit a valuable parcel of
‘ goods, by the meer negligence or forgetfulness of
‘ the master of a ship, whom he had never known
‘ or entrusted; and that, without its being possible
‘ for him, by the utmost care and diligence, to
‘ prevent such a forfeiture; because the goods might
‘ be forfeited, before it was possible for him to hear
‘ of the arrival of the ship, or to know that he had
‘ such a parcel of goods on board such a ship; for
‘ the master always made his report immediately
‘ upon his arrival, and before he had time or op-
‘ portunity to rummage his ship, or to send to any
‘ of the merchants to come and take care of their

‘ goods; and as masters are generally in a great
 ‘ hurry at their setting out, when small parcels of
 ‘ fine goods are usually sent on board, a master
 ‘ might very probably forget to mention some of
 ‘ them in his report, which by this clause would oc-
 ‘ casion a forfeiture, such goods being always lodged
 ‘ in places that would be called concealed; whereas
 ‘ as the law then stood, if the master upon rum-
 ‘ maging and searching his ship, which every master
 ‘ did before clearing, or if the merchant upon hear-
 ‘ ing of the ship’s arrival, or receiving advice of his
 ‘ having such a parcel of goods on board, should
 ‘ come to look after his goods, though they had
 ‘ been forgot in the report, a post-entry might be
 ‘ made, by which all forfeitures and penalties would
 ‘ be prevented. This they thought would be a new
 ‘ hardship upon merchants, and a new discourage-
 ‘ ment to trade, which was before, by our late sta-
 ‘ tutes relating to the customs, subjected to so great
 ‘ an expence, and so many difficulties, that it was
 ‘ impossible for our merchants to carry on their trade
 ‘ at so easy a rate as our neighbours did, which was
 ‘ the true cause of our being under-sold by foreign-
 ‘ ers in all the markets of *Europe*.

Answer.

To these objections it was answered, ‘ That all
 ‘ these hardships and dangers might easily be pre-
 ‘ vented by the care and conduct of masters of ships:
 ‘ That owners or merchants who intrusted their
 ‘ ships or goods to idle careless men, were certainly
 ‘ in some fault, and therefore deserved to suffer, if
 ‘ there were no necessity for making them do so:
 ‘ But that in the cases then before them, it was ab-
 ‘ solutely necessary to lay some part of the penalty
 ‘ upon them, for the very reason that had been given
 ‘ against it; because the masters employed by them
 ‘ were often men of such low rank, and so poor,
 ‘ that it was impossible to recover any penalties from
 ‘ them

‘ them ; and as duties upon importation, were abso-
‘ lutely necessary for the support of our government,
‘ and it being impossible to collect those duties with-
‘ out laying penalties upon smuggling, those penal-
‘ ties must be laid on in such a way, as to make it
‘ possible to recover them, otherwise they would
‘ certainly prove altogether ineffectual. That with
‘ respect to the forfeiture of ships, as the clause was
‘ amended, and confined to ships not exceeding 100
‘ tons, it could not much regard any branch of our
‘ foreign trade, it would chiefly regard our coasting-
‘ vessels, and our *Holland’s* and *French* trading sloops,
‘ many of which, they were afraid, were chiefly em-
‘ ployed in smuggling. That they would be sorry
‘ if any person suffered through a meer oversight ;
‘ but if they gave by law too great, or, indeed,
‘ any indulgence to oversights, fraudulent designs
‘ would always be cloaked under pretended over-
‘ sights, and therefore it was necessary to make the
‘ law severe, though in the execution of that law,
‘ some indulgence might be shewn in any case,
‘ which appeared clearly to those, who had the ex-
‘ ecution of the law, to be nothing but an over-
‘ sight. That we had, it was true, many customs
‘ and duties upon goods imported, and the laws for
‘ collecting them, might probably subject our mer-
‘ chants to some inconveniences, and to some ex-
‘ pence ; but they knew of no country in the world
‘ where their trade was free from customs and du-
‘ ties ; and they believed the merchants of this king-
‘ dom were subjected to no greater inconvenience
‘ or expence on that account, than the merchants
‘ were in any of our neighbouring countries ; so
‘ that if foreigners under-sold us in any market,
‘ some other reason was to be assigned for their so
‘ doing, and when that reason was assigned, if it
‘ was possible to remove it, they would join in any
‘ measure, that could be proposed for that purpose.’

Amend-
ments offer-
ed in the
house of
Lords.

This bill was read a first and second time in the house of Lords, without any considerable debate; but when it came before the committee of that house, which was on *Monday* the 17th of *May*, the following amendments were offered by the Lord *Hardwick*, viz.

In the act, as it is now printed, page 517, line 29th, leave out from the word (frequently) to the word (in) in the 38th line, and insert (lurk, wait, or loiter in divers parts of the kingdom).

Page 518, line 10th, before (persons) insert (person or) and after (persons) leave out to the first (and) in the 9th line of the 519th page, and instead thereof insert (is, are, or shall be lurking, waiting, or loitering, with intent to be aiding and assisting in the running, landing, or carrying away any prohibited or uncustomed goods, it shall and may be lawful, to and for every such justice or justices, to cause all such persons to come and be brought before him or them, and to grant his or their warrant or warrants, for the apprehending such offenders, and bringing him or them before any of his Majesty's said justices of the peace; and if such persons shall not give a satisfactory account of themselves, and their callings and employments, and thereby, or otherwise, make it appear to the satisfaction of such justice or justices, that they were not so lurking, waiting or loitering, with intent to be aiding or assisting in carrying on any such fraudulent or unlawful practices aforesaid, then every person who shall not give such account and satisfaction to such justice or justices, shall be committed to the house of correction, there to be whipped and kept to hard labour, for any time which such justice or justices shall, in his or their discretion, think meet, not exceeding one month; and that the commissioners of the customs or excise, respectively, shall cause to be paid, to the person or persons informing of such offender or offenders, a reward
of

of 20 s. for every such offender so taken, as aforesaid.

Provided always, and be it farther enacted by the authority aforesaid, that if any such person so brought before such justice or justices, shall desire time for the making it appear, that he or they were not lurking, waiting, or loitering, with intent to be aiding or assisting in the carrying on such fraudulent or unlawful practices, such person or persons shall not be punished by whipping or other correction; but then, and in every such case, it shall and may be lawful, to and for every such justice or justices, to commit such person or persons to the common jail, there to remain and continue until he or they shall give such account of themselves, or make proof of the matters aforesaid, to the satisfaction of such justice or justices, or until such person or persons shall give and find good and sufficient security, to the approbation and satisfaction of such justice or justices, not to be guilty of any of the said offences, or fraudulent or unlawful practices.)

Page 519, line 9th, leave out (discovery and)

—— line 13th, leave out from (thirty six) to (if) in the 25th line.

—— line 31st, leave out (upon such conviction as aforesaid).

—— lines 40th and 41st, leave out (justice or justices of assize for the county where the fact was done, or the)

Page 520, line 3d, leave out from (act) to (all) in the 16th line.

Page 521, line 21st, leave out from (by) to (and) in the 24th line, and insert (an act made in the 4th year of the reign of his late Majesty King George I. (of glorious memory) intituled, *An act for the farther preventing robbery, burglary, and other felonies, and for the more effectual transportation of felons, and unlawful exporters of wool, and for declaring the law upon some points relating to pirates*: And by another
act

act made in the 6th year of the reign of his said late Majesty, intituled, *An act for the better preventing robbery, burglary, and other felonies, and for the more effectual transportation of felons*).

Page 523, line 20th, leave out from (notwithstanding) to (And) in the 26th line of the 524th page.

Fo. 527, A. line 11th, after (kingdom) insert (in the execution of his office).

Fo. 527, B. line 43d, leave out from (process) to the second (Or) in the 46th line.

Agreed to
in the com-
mittee.

Upon these amendments there was a long debate, however they were all at last agreed to in the committee, without any one division; as was likewise the following other amendment offered by the Earl of *Strafford*, viz.

Page 30th, line 13th, leave out from (notwithstanding) to (And) in the 26th line.

Next day the Earl of *Warwick*, who was chairman of the committee, reported the amendments to the house, and after the first amendment above-mentioned was read a second time, a motion was made for agreeing to it; but the motion being objected to, a new debate arose upon the same subject; after which the question was put, and the amendment was disagreed to, upon a division, 64 Not Contents, to 58 Contents; and the other amendments made by the committee, being afterwards read a second time, were every one of them, of course, disagreed to.

In both these debates, the arguments for the amendments, offered by the Lord *Hardwick*, were in substance as follows, viz.

Argument
for the a-
mendments.

‘ My Lords, while we continue in the present
‘ method of raising those funds which are necessary
‘ for the support of our government, I am very sen-
‘ sible how much it concerns us to prevent that frau-
‘ dulent

‘dulent and pernicious practice called smuggling,
‘and therefore I shall always be ready to join in
‘such measures as I think proper and necessary for
‘that purpose; but at the same time, my Lords,
‘do not let us forget the freedom of our constitution,
‘and the liberties and privileges of the people; for
‘slavery would be a price too dear, even for the
‘most absolute security against smuggling: For this
‘reason, when any method is proposed, or any
‘bill brought in, for preventing the running of
‘goods, or the detecting, apprehending, and pu-
‘nishing persons guilty of such practices, we ought
‘to consider, not only whether it will be effectual
‘for the end proposed, but whether it be consist-
‘ent with our constitution, and the liberties of the
‘people.

‘By all those who understand any thing of our
‘constitution, it must be granted, that one of the
‘great barriers for the liberties of the people, is,
‘that fundamental maxim of the laws of this king-
‘dom, by which every man is presumed innocent,
‘till the contrary appears by some overt act of his
‘own; and that act must be such a one as is in it-
‘self unlawful, and of such a nature that no inno-
‘cent construction can be put upon it. We have,
‘in our laws, no such thing as a crime by implica-
‘tion; nor do we pretend to judge of, or to punish
‘a man for meer thinking. From hence it is that
‘a wicked or malicious intention can never with us
‘be proved by witnesses: Facts only are admitted to
‘be proved, and the judge and jury are from those
‘facts to determine, with what intention they were
‘committed; but no judge or jury can ever by our
‘laws suppose, much less determine, that an action
‘in itself innocent and indifferent, was attended with
‘a criminal and malicious intention. Such an infer-
‘ence, my Lords, was never made in a free coun-
‘try, nor under any government but that of a ty-
‘rannical as well as arbitrary administration.

‘ Another security for our liberties is, that no sub-
‘ ject can be imprisoned unless some felonious and
‘ high crime be sworn against him. If the crime be
‘ not in itself atrocious, or if there be only a suspi-
‘ cion sworn against him, the greatest hardship he
‘ can be subjected to, is, to be imprisoned till he
‘ gives bail for his appearance; and if any of our
‘ inferior judges refuse to admit him to bail, or re-
‘ fuse to accept of proper and sufficient bail, the sub-
‘ ject so aggrieved may immediately apply by *Ha-*
‘ *beas Corpus*, to the King’s courts in *Westminster-*
‘ *hall*, the judges of which are now, by the happy
‘ revolution, put above being influenced by any au-
‘ thority, but that of justice and the established laws
‘ of their country, or awed by any thing but that
‘ of their own character and reputation, or an im-
‘ peachment in Parliament, which would certainly
‘ be the consequence, if they refused justice to any
‘ the least of his Majesty’s subjects. This, my Lords,
‘ with respect to private men, is the very foundation
‘ stone of all our liberties, and if we remove it, if
‘ we but knock off a corner, we may very probably
‘ overturn the whole fabric.

‘ A third guard for our liberties, and the only o-
‘ ther I shall at present take notice of, is, that liber-
‘ ty which every subject has, not only to provide
‘ himself with arms proper for his defence, but to
‘ accustom himself to the use of those arms, and to
‘ travel with them whenever he has a mind. This,
‘ my Lords, is not only a defence for our liberties,
‘ but it is the chief and the only defence upon which
‘ we ought to depend, for the preservation of our
‘ country against foreign invasions. In arbitrary go-
‘ vernments, we know it is the custom and the
‘ maxim, to disarm the people, and to prevent any
‘ man’s furnishing himself with arms, or accustom-
‘ ing himself to the use of them, but such as are re-
‘ tained and employed by the government; therefore
‘ such governments are always obliged to keep a
‘ large

‘ large body of mercenary troops in their pay, who
‘ may perhaps sometimes be able to defend the coun-
‘ try against invasions, but they are generally able,
‘ and always ready and willing to defend their pay-
‘ masters against the justest resentment of the peo-
‘ ple ; so that in such countries it may be justly said,
‘ the people are preserved from being plundered by
‘ foreign enemies, for no other reason but that their
‘ domestic plunderers may find a more rich and plen-
‘ tiful booty ; and in all such countries, we find their
‘ laws are generally partial in favour of tax-gather-
‘ ers, and other instruments of power, and terribly
‘ severe upon those who shall upon any occasion dare
‘ to oppose them, in what they may be pleased to
‘ call the execution of their office.

‘ Having premised these observations upon our
‘ constitution, and upon the nature of a free govern-
‘ ment, give me leave, my Lords, to apply them
‘ to that clause in this bill, which subjects every man
‘ in the kingdom to the danger, nay, I may say cer-
‘ tainty, of being committed to prison by a single
‘ justice of peace without bail or mainprize, of be-
‘ ing convicted and transported as a smuggler, and if
‘ he returns before the time limited, hanged as a
‘ felon, without benefit of clergy ; and all this with-
‘ out his having been guilty of any one overt act,
‘ except that of travelling properly armed for his
‘ defence, and having the misfortune to meet with
‘ two of his friends upon the road, armed in the
‘ same manner ; in case any two rogues of inform-
‘ ers, or perhaps real smugglers, who are to get 150,
‘ perhaps 250*l.* by their perjury, shall swear that
‘ this honest man and his two friends were assembled
‘ and armed, in order to be aiding and assisting in
‘ the clandestine running, landing, rescuing, or car-
‘ rying away prohibited or uncustomed goods. This
‘ regulation, when stripped of that multiplicity of words
‘ which render obscure the meaning and intent of e-
‘ very clause of an act of Parliament, really seems
‘ to

‘ to me to be the most terrible and the most entrap-
‘ ping regulation that was ever proposed in any
‘ country, and if it passes into a law, I am sure it
‘ will not be quite safe for any three gentlemen
‘ in the kingdom to be seen in company toge-
‘ ther, if they have but walking swords by their
‘ sides.

‘ It is evident, at first view, that this regulation
‘ is repugnant to all the maxims of a free govern-
‘ ment. The wearing of arms is an act not only in-
‘ nocent, but highly commendable, therefore no
‘ presumption of any crime can from thence be in-
‘ ferred; and for this reason, the admitting of wit-
‘ nesses to prove that any three men were so armed,
‘ in order to assist in smuggling, is admitting wit-
‘ nesses to prove an intention, without any one o-
‘ vert act from whence that intention can possibly be
‘ inferred, which is inconsistent with the freedom of
‘ our constitution, and with the whole tenor of the
‘ laws of this kingdom. We may as well admit
‘ witnesses to prove, that a man got up in the mor-
‘ ning and put on his cloaths, in order to go and
‘ assist in the running of goods; which I am sure
‘ would be ridiculous as well as pernicious, either in
‘ this or in any other country. But this is not all
‘ the hardship in the present case: Witnesses are not
‘ only to be admitted to prove a wicked intention,
‘ without an overt act, but they are to be greatly
‘ rewarded for giving such a testimony; which is a
‘ most dangerous practice, and a practice we have
‘ lately got too much into; for, in my opinion, no
‘ man ought to be admitted as a witness against any
‘ criminal, if he be to have a share of the reward
‘ upon his conviction: However, in no case is it so
‘ dangerous as it will be in this; because when false
‘ witnesses come to swear a fact upon a man, which
‘ he was innocent of, he may prove himself to have
‘ been at another place at the time; or he may fall
‘ upon many other ways to make his innocence ap-
‘ pear

‘ pear, and to convict the witnesses of perjury, which
‘ danger every false witness must be in, and this is
‘ in all other cases a great guard to the innocent ;
‘ but in the present case, I should be glad to know
‘ how it will be possible for a man to prove he had
‘ no such intention as is sworn against him, or to
‘ convict a false witness of perjury? His having oc-
‘ casion to travel from one place to another, and his
‘ being upon the road thither, will be no proof of
‘ his innocence, or the witness’s perjury, because e-
‘ very smuggler may have, or contrive such occa-
‘ sions ; and as smugglers will in this case generally
‘ be the informers, they may chuse a time when
‘ concurring circumstances fortify their testimony :
‘ They may chuse a time when a ship is actually ho-
‘ vering at sea ; or they may lodge a parcel of run
‘ goods near the place, where those against whom
‘ they have a mind to swear, are assembled, and after
‘ procuring those goods to be seized, they may then
‘ go and swear that such men were assembled at such
‘ a place, and armed, in order to assist them in the
‘ carrying off or rescuing those run goods.

‘ With respect, my Lords, to the security of the
‘ subject against unjust imprisonments, and the de-
‘ manding of extravagant bail ; and also with re-
‘ spect to the liberty of applying to the King’s
‘ courts ; these valuable privileges are all to be ta-
‘ ken away by this new regulation : A man is to be
‘ imprisoned without so much as a pretence or suspi-
‘ cion of his having been guilty of any crime ; only
‘ because a sorry fellow perhaps has gone and swore
‘ before a country justice out of malice, or for a re-
‘ ward, that he intended to assist in the running of
‘ goods ; and tho’ this crime, even when actually
‘ committed, be in its own natureailable, and tho’
‘ by our constitution, every man has a right to insist
‘ that in such cases no extravagant bail shall be ex-
‘ acted from him, yet now he is to be committed,
‘ without bail or mainprize, there to remain till he
‘ can

‘ can force the justice and his informer to bring him
 ‘ to a tryal, which I do not see how he can do ; for
 ‘ by this clause, the *Habeas Corpus* act seems in all
 ‘ such cases to be repealed. Again, if the justice
 ‘ should commit iniquity, either in not admitting
 ‘ of a proper and full vindication, or in delaying to
 ‘ bring the person accused to a tryal, where shall
 ‘ such person apply for relief? For by this clause,
 ‘ the liberty of applying to the King’s courts is in
 ‘ such cases taken intirely away from all the King’s
 ‘ subjects: The King’s courts may perhaps at last
 ‘ compel the prosecutor to bring him to a tryal ; but
 ‘ they cannot admit of the most ample and clear vin-
 ‘ dication, nor can they in the mean time admit the
 ‘ person accused to bail, let him be of what charac-
 ‘ ter and circumstances he will: Yet this power,
 ‘ which by this clause is taken from the King’s courts,
 ‘ is given to the justices of the peace, who are re-
 ‘ movable at the pleasure of a minister, and may
 ‘ most of them be made the drudging tools of an
 ‘ administration ; therefore I must think it very
 ‘ extraordinary and inconsistent with the principles
 ‘ of the revolution, to give such powers to such judg-
 ‘ es, or to give them any supreme and uncon-
 ‘ troulable power whatsoever ; especially in cases
 ‘ where the liberty of a subject is in immediate dan-
 ‘ ger, and even his life brought into a consequential
 ‘ danger.

‘ From what I have said, my Lords, it appears,
 ‘ that if this clause passes into a law, the liberty and
 ‘ the life of every subject in *Britain* will be exposed
 ‘ to very great perils, if he ever travels with arms
 ‘ for his defence, or appears abroad with any offen-
 ‘ sive weapon in his custody ; therefore we may sup-
 ‘ pose that in such circumstances no man will ever
 ‘ travel with arms, and since no man can make use
 ‘ of any arms, it is not to be supposed that any man
 ‘ will be at the expence of providing himself with
 ‘ such utensils ; for which reason I must look upon
 ‘ this

‘ this bill, as a bill for disarming the whole king-
‘ dom; and surely none of your Lordships will
‘ think, that the passing of any such bill is consistent
‘ with the preservation of our happy constitution, or
‘ the safety of our native country. I hope no man
‘ thinks that smuggling, or the resisting of custom-
‘ house officers, is so heinous or dangerous a crime
‘ as high treason. Now I would ask what any of
‘ your Lordships would think of a new law against
‘ treason conceived in the very terms of this clause?
‘ Suppose the preamble should recite, “ That trai-
“ terous and rebellious persons frequently appear in
“ great gangs, carrying fire-arms, and other offensive
“ weapons, in order to be aiding and assisting in
“ some treasonable practices, to the great danger of
“ his Majesty’s person and government, and should
“ therefore enact, that upon information to be given
“ upon oath before any one justice of peace, that any
“ persons, to the number of three, or more, were
“ so assembled and armed, in order to assist in such
“ practices, the justice might commit them, with-
“ out bail or mainprize; and that upon due proof
“ of their being so assembled and armed, in order to
“ assist in such practices, and upon conviction, they
“ should suffer as traytors; and farther, that the
“ informers should, for every traytor so convicted
“ receive a reward of 50 l.” I am very certain, that
‘ if ever I should see such a law passed, I should
‘ look upon our constitution to be at an end; yet
‘ we may have an administration that would be
‘ fond of having such a law passed, perhaps in order
‘ to guard against those treasonable practices, which
‘ their own conduct had made frequent; and in such
‘ a case, would not this very law be a good precedent
‘ for them? Would not they have reason to say to
‘ the Parliament, What! will you refuse to grant
‘ that security against treasonable practices, which
‘ your ancestors have granted against the practices
‘ of smuggling?

‘ Having

‘ Having thus, my Lord, shewn the dangers
‘ that are most justly to be apprehended from the
‘ clause as it stands at present, I shall next inquire a
‘ little into the nature of the evil intended to be re-
‘ medied, in order to see, whether a less dangerous
‘ regulation would not be sufficient to remedy that
‘ evil. My Lords, the evil complained of is, that
‘ great numbers of smugglers lurk about our coasts
‘ and navigable rivers, and conceal themselves sepa-
‘ rately, under various pretences, in order to wait
‘ the arrival of their smuggling vessels ; and when
‘ these vessels arrive, they then gather themselves in
‘ such a body, as to be too strong for the civil pow-
‘ er ; so that before a proper assistance can be pro-
‘ cured, they get their goods landed and carried
‘ clear off. Now there is another clause in this bill,
‘ which with a very little variation will, in my opi-
‘ nion, be an effectual remedy for this evil, which
‘ is that clause, by which a power is given to any
‘ justice, upon a proper information, to seize all
‘ such persons, and commit them to the house of
‘ correction, in case they cannot give a good account
‘ of themselves, which will render it impossible for
‘ these fellows to conceal themselves separately, and
‘ wait for a ship’s arrival ; they must, from the
‘ beginning of their waiting appear in a body, in
‘ which case it may perhaps be out of the power of
‘ a neighbouring justice to seize any of them, in or-
‘ der to send them to the house of correction ; but
‘ in such a case, it will likewise be out of the power
‘ of any justice to seize any of them, in order to
‘ send them to jail without bail or mainprize : In
‘ both cases, the justice must wait till he can procure
‘ a proper assistance, which he may do generally be-
‘ fore the arrival of the smuggling vessel expected ;
‘ and the sending them to the house of correction,
‘ will as effectually prevent their being assisting for
‘ that time at least, in the landing or carrying off any
‘ goods, as the sending them to jail and afterwards

‘ trans-

‘ transporting them, would be. This regulation
‘ would be consonant to the laws of this kingdom,
‘ and the punishment would be in some measure pro-
‘ portioned to the crime ; because a man who loiters
‘ idly in any place, and cannot give a good account
‘ of himself, deserves to be sent to the house of cor-
‘ rection as a vagabond ; but I must think it too
‘ severe, to make a man guilty of felony, or to
‘ commit him without bail or mainprize, only be-
‘ cause he is seen with a sword or cutlafs lurking or
‘ loitering in any place, and is not able to give such
‘ an account of himself as may be satisfactory to a
‘ country justice. For this reason, I hope your
‘ Lordships will agree to the amendments I shall
‘ propose as follow, (as abovementioned).

‘ These amendments will, in my opinion, make
‘ the bill as effectual as it is at present against smug-
‘ gling, and will in some measure prevent those
‘ dangers which may accrue from it, with respect
‘ to the freedom of our constitution and the liberty
‘ of the subject. I say, my Lords, in some mea-
‘ sure ; for neither these amendments, nor any
‘ amendments, can prevent its being a very dan-
‘ gerous bill, and such a one as I am sorry to see
‘ necessary in this once happy kingdom. The clause
‘ I have taken notice of is a clause absolutely repug-
‘ nant to the whole tenor of our laws, and incon-
‘ sistent with the liberty and happiness of the peo-
‘ ple ; but there are several other clauses which may
‘ be of dangerous consequence both to our trade and
‘ our constitution, some of which I shall beg leave
‘ to take notice of, not with a design to amend
‘ them, or leave them out, but in order to shew
‘ that there is the greater necessity for agreeing to
‘ the amendments I have proposed, as well as to one
‘ other amendment I shall hereafter propose.

‘ The clause for making all persons guilty of fe-
‘ lony, who to the number of two or more, shall be
‘ found armed with any offensive weapon, and tra-
‘ velling

• velling within five miles from the sea-coasts or any
 • navigable river, with any horse or cart whereon
 • shall be laden or put more than six pounds of run
 • tea, or any other run goods above the value of
 • 30 *l.* sterling, is a most dangerous clause for the
 • subject; because it puts it in the power of any ma-
 • licious or knavish servant, to make his master, if
 • he travels with a sword or pistols, guilty of felony
 • whenever he has a mind, by putting seven pounds
 • of tea, or thirty guineas worth of lace into his
 • master's portmanteau, and going, at the next town
 • they stop at, to inform against him as a smuggler;
 • for which piece of malice or knavery, this servant
 • is, by a subsequent clause, to receive 50 *l.* reward.
 • Nay, I do not know but some Lord of this house
 • may some time hereafter be transported as a smug-
 • gler; for seven pounds of tea, or thirty guineas
 • worth of lace, may be packed up in very little
 • room, and if a malicious or knavish servant, should
 • put any such parcel into his Lord's coach-box, or
 • cloak-bag, and swear that he put it there by his
 • Lordship's order, with a design to convey it to
 • his house in town, or his house in the country, I
 • do not see how the best nobleman in the kingdom
 • could vindicate himself against such a clear proof
 • of a fact made felony by this bill. The noble
 • Lord would of course therefore be found guilty,
 • and transported as a smuggler; and the servant
 • would get 50 *l.* reward from the government, be-
 • sides a much greater reward perhaps from those
 • who put him upon that piece of treachery, and fur-
 • nished him with goods for that very purpose.

• I know, my Lords, it may be said that no man
 • can be absolutely safe against treachery and perju-
 • ry; but from all our law-books, I defy any man
 • to suppose a case where it is so easy to cook up a
 • treacherous, yet feasible accusation against a man
 • who has not been guilty of the least imprudence;
 • or so safe to give a false testimony, as it will be in
 • the

‘ the case I have now laid before you ; for in all or
‘ most other cases there must be a confederacy and
‘ combination between two or more persons, in or-
‘ der to get a man convicted upon a false informa-
‘ tion ; in which case the confederates are in danger
‘ of being betrayed by one another ; and even the
‘ facts themselves which are falsely sworn against a
‘ man, often furnish him with means for justifying
‘ himself and condemning his accusers ; whereas in
‘ the present case, there is no need of any confedera-
‘ cy, nor can the person accused justify himself by
‘ any means I can think of.

‘ The clause for making actions of assault upon
‘ officers triable in any county of *England*, may
‘ likewise, in my opinion, be of dangerous conse-
‘ quence. It is granting a privilege to his Majesty’s
‘ officers which is very inconsistent with the safety
‘ of his Majesty’s subjects ; and it is such a privilege
‘ as ought not, I think, to be granted even to the
‘ crown itself, nor ever was granted, except upon
‘ very extraordinary occasions. For when an officer
‘ is assaulted, or pretends to have been assaulted by
‘ a country gentleman or farmer, I can see no rea-
‘ son why he should be at liberty to lay his action
‘ and bring it to trial in any county in *England*, and
‘ every gentleman or farmer who may be assaulted
‘ by an officer, confined to try his action in the ve-
‘ ry county where the assault was committed. To
‘ give to every officer of the excise as well as cu-
‘ stoms (for this clause is carefully extended to both)
‘ a privilege of making a country gentleman or far-
‘ mer, with all his witnesses, dance from *Northum-*
‘ *berland*, *Wales*, or *Cornwall*, in order to defend
‘ himself against an action of assault to be tried in
‘ the county of *Middlesex*, in *Kent*, or in *Essex*,
‘ where the characters of the plaintiff, defendant, or
‘ either of their witnesses, can neither be known, nor
‘ inquired into, is, in my opinion contrary to the
‘ whole spirit of our laws, and inconsistent with the

‘ quiet and ease of all other subjects; for every jack-
‘ in an office is but too apt to be insolent and fau-
‘ cy to those who must apply to him; and this pri-
‘ vilege may, I am afraid, render our jacks of the
‘ custom-house and excise offices altogether insup-
‘ portable. It is a good luck for us that no officer of
‘ our army can well bring an action of assault a-
‘ gainst any man, at least it is as yet reckoned incon-
‘ sistent with their honour to do so; for if it had
‘ been otherwise, I should have expected that they
‘ likewise would have been included in this bounti-
‘ ful clause, which establishes such a remarkable dif-
‘ ference between his Majesty’s officers and his Ma-
‘ jesty’s subjects.

‘ The clause for admitting officers to bail in the
‘ case of murder or killing of any person who resists
‘ them, I must likewise look upon as a new piece of
‘ special grace and favour granted to our officers of
‘ the customs and excise. Indeed, in this case the
‘ officers of our army may often come in for their
‘ share, because they are generally called as assistants
‘ to custom-house officers as well as to executioners.
‘ But I am afraid this new favour may make them
‘ sometimes imagine that clubs, or even fists, are
‘ offensive weapons; and such as may be opposed
‘ by powder and ball; therefore I must think it of
‘ dangerous consequence to the lives of his Majesty’s
‘ subjects; for in such a case I think, the proclama-
‘ tion against riots ought, at least, to be read, in or-
‘ der that those who are only lookers on, may have
‘ time to retire: And I can see no reason why of-
‘ ficers, in such a case, might not have been left
‘ to the course of the common law, as well as gentle-
‘ men are in a parallel case, and a case at least as fa-
‘ vourable; for if a gentleman should kill a high-
‘ wayman, who assaults him and demands his mo-
‘ ney, he must take his fate at common law, and in
‘ case the coroner’s inquest should give a wrong ver-
‘ dict against him, he must lie in prison till his tryal;
‘ but

‘ but if an officer kills a man who did not perhaps
‘ assault him, or bring his life into any danger, and
‘ the coroner’s inquest should bring it in, perhaps
‘ justly, wilful murder: yet by this clause his Ma-
‘ jesty’s justices of the peace, or any other justices,
‘ are not only impowered, but are enjoined and re-
‘ quired, to admit such officer to bail; so that by
‘ these last words it would seem, that there is not so
‘ much as a discretionary power left in the judge, if
‘ there be but the least pretence for the officer’s being
‘ within this clause.

‘ I have no occasion to explain to your Lordships
‘ the great benefits and advantages we reap by trade,
‘ or how necessary it is to the very being, as well as
‘ happiness of this nation, therefore I shall only ob-
‘ serve, that if we should destroy our trade, in or-
‘ der to prevent smuggling, it would indeed be an
‘ effectual remedy, and I believe the only remedy
‘ we shall ever find to be altogether effectual; but
‘ it would be like a man’s giving his whole estate to
‘ his enemies, for fear his friends should cheat him
‘ out of a small part of it. Now there are in this
‘ bill several clauses, which will, in my opinion, ex-
‘ pose our merchants and seamen to many new hard-
‘ ships, dangers and inconveniences. I shall take
‘ notice only of that clause, which gives power to
‘ our custom-house officers to enter and rummage
‘ any ship at sea, if within what they may please to
‘ call the limits of any port in this island. What
‘ may be meant by the limits of a port, I do not
‘ know, but I am certain it is a term so vague and
‘ indeterminate, that it must occasion an infinite
‘ number of contests, between our custom-house of-
‘ ficers and the commanders of our merchant-men;
‘ for no master will submit to have his ship rumma-
‘ ged and searched, when he thinks he is not by law
‘ obliged to do so; therefore if a custom-house offi-
‘ cer should judge a ship to be within the limits of
‘ a port, and the captain should judge she is not, a
‘ dispute,

‘ dispute, and perhaps a battle may ensue, between
‘ the officers and the ship’s crew: This will subject
‘ the captain, and I believe every one on board the
‘ ship, to an action for a hundred pounds penalty,
‘ in which they will every one be cast, if the ship
‘ should be judged in law to have been within the
‘ limits of any port when the officer demanded ad-
‘ mittance; whereas if it should be judged other-
‘ ways, the officer is made liable to no penalty for
‘ the assault he made upon the ship; from whence
‘ we may conclude, that our custom-house officers
‘ will at last pretend to search almost every ship that
‘ comes within the four seas, unless the master agrees
‘ to pay them a tax for preventing the trouble they
‘ may give him by rummaging and searching his
‘ ship upon the high seas, and when he has perhaps
‘ a fair wind for carrying him to the port to which
‘ he is really bound: As this will be a great hard-
‘ ship upon our merchants and sea-faring men, I
‘ therefore wish that a league, half a league, or some
‘ other determinate distance had been put instead of
‘ the word limits.

‘ Upon the whole, my Lords, I must think this
‘ bill one of the most severe and dangerous bills that
‘ was ever passed by a *British* legislature; and yet,
‘ notwithstanding its severity, I am afraid it will be
‘ far from answering the end. I am afraid, that in-
‘ stead of preventing smuggling, it will render def-
‘ perate all those who shall hereafter embark in that
‘ pernicious trade, which will make them more bold
‘ and enterprising than they ever were heretofore:
‘ and their common danger will unite them closer
‘ together, which will make them more powerful
‘ and formidable. While our numerous high duties
‘ continue, while there are such profits to be got by
‘ smuggling, it is in vain to expect we can intirely
‘ prevent it by the most severe laws we can make.
‘ By such laws we may ruin our constitution, we
‘ may subject ourselves to arbitrary power, but e-
‘ ven

‘ even arbitrary power itself will not prevent it; for
‘ in *France*, where arbitrary power has been long
‘ established, where the punishment of every sort of
‘ smuggling is death or the galleys, where they keep
‘ up a particular sort of army called *Les Maltotiers*,
‘ for that very purpose, yet smuggling is in that
‘ kingdom almost as frequent as in *England*, and
‘ their smugglers are much more desperate than ours;
‘ for they march in little armies, are well armed and
‘ disciplined, and often engage in battle with the
‘ custom-house officers and their guard of *Maltoti-*
‘ *ers*. The gentlemen of the *French* army are in-
‘ deed but seldom or ever employed in such ex-
‘ ploits; they consider that their proper business is
‘ to defend their country against open and declared
‘ enemies; and therefore they think it below them
‘ to engage against *Banditti*, or to hunt after and
‘ guard criminals; this low sort of work they look
‘ on as fit only for *Maltotiers* and *Archers*, or she-
‘ riff’s officers; and though they have a vast num-
‘ ber of such in *France*, yet with them, and with
‘ all the other advantages they have, it has never
‘ yet been in their power intirely to prevent smug-
‘ gling.

‘ From all these considerations, I could wish, my
‘ Lords, that the bill were delayed till another ses-
‘ sion, when we could have time to concert proper
‘ clauses for the end intended, and such as would
‘ not any way injure our constitution, or oppress our
‘ fair traders. Such bills ought to be drawn up and
‘ passed with the utmost caution and maturest deli-
‘ beration; for in passing every such bill, we are
‘ placed between two precipices, where the least in-
‘ clination to one side or the other may throw us
‘ headlong into a gulph of perdition: We may ruin
‘ our revenue by giving too great a latitude to smug-
‘ glers, or we may destroy our constitution by pla-
‘ cing too great and too arbitrary a power in the

‘ crown, and likewise our trade, by subjecting our
‘ merchants to too many dangers and inconveni-
‘ ces ; But if the bill cannot be delayed, if the dis-
‘ ease absolutely requires some immediate applica-
‘ tion, I hope your Lordships will agree to the a-
‘ mendments I have offered ; and as it is a bill of a
‘ very new and extraordinary nature, I hope it will
‘ not be at first made perpetual : Let us do as we
‘ always have done in most new regulations. Let
‘ it be made to continue for three, five, or seven
‘ years, that we may have some experience of its
‘ effects, before we make it a perpetual law ; which
‘ is the last amendment I shall take the liberty to
‘ offer.

The answer was to this effect, *viz.*

‘ My Lords, as the immediate preservation, as
‘ well as future happiness of the nation, depends
‘ upon the support of our government, it is the du-
‘ ty of Parliament not only to grant such funds as
‘ may be necessary for that support, but to make
‘ those grants effectual ; for the granting of any tax
‘ or duty would be of very little signification, if the
‘ Parliament did not, at the same time, prescribe
‘ such methods as should be effectual for raising and
‘ collecting that tax or duty ; and if the methods at
‘ first prescribed should fail of the expected success,
‘ it is for the same reason the duty of parliament to
‘ contrive and prescribe such other methods as may
‘ be thought more effectual. The imposing of any
‘ tax or duty, and allowing any man, thro’ our ne-
‘ glect, to escape paying that share of it which is
‘ due from him by law, is not only a breach of our
‘ duty towards our King and country, but a piece
‘ of injustice done to every particular man in the
‘ kingdom, who honestly and fairly contributes his
‘ share. Yea farther, any sort of neglect in this
‘ particular, must be of the most fatal consequence
‘ to

‘ to our trade, and must necessarily at last be the
‘ ruin of every fair trader in the kingdom; and in
‘ our present circumstances, it may likewise be call-
‘ ed a sort of breach of the public faith; for as most
‘ of our duties, especially in the customs, are mort-
‘ gaged, in whole or in part, to the creditors of the
‘ public, the allowing the produce of any of those
‘ duties to be diminished by fraudulent practices,
‘ when it is in our power to prevent it, is the same
‘ with taking from them a part of that security
‘ which was given them by Parliament, and which
‘ the Parliament is bound to make good.

‘ Notwithstanding all these obligations we lie un-
‘ der, yet, my Lords, I shall readily agree that we
‘ ought to be extremely cautious in granting any new
‘ powers for raising and collecting our taxes, which
‘ may any way incroach upon the constitution, or
‘ upon the liberties of the people; but if we make a
‘ phantom of every new power, or new penalty,
‘ that may be really necessary for that purpose, and
‘ give a loose to our imaginations, by supposing
‘ that every such power or penalty will be made a
‘ wrong and unjust use of, and turned towards the
‘ oppression and ruin of the subject, instead of being
‘ applied to their relief and preservation, we shall
‘ never grant any new power, nor continue the old;
‘ for no power was ever granted, nor can be grant-
‘ ed, upon which a fruitful imagination may not
‘ form various scenes of horror and destruction; nay,
‘ no power can be granted but what may truly be
‘ made a wrong use of; but while we have a Par-
‘ liament subsisting, while we are subject to no
‘ earthly power but what is established by, and de-
‘ pends upon Parliament, we have no occasion to
‘ frighten ourselves with such chimæra’s; for, thank
‘ God! our Parliaments have hitherto been able to
‘ give a check to every wrong use that has been made
‘ of any power, and to bring the offenders to con-
‘ dign punishment.

‘ With regard to the clauses in this bill which
‘ have been objected to, and the new powers to be
‘ granted which have been set in such a hideous light;
‘ before I begin to consider any of them particular-
‘ ly, give me leave, my Lords, to make this gene-
‘ ral observation, that tho’ we do not pretend to
‘ punish a man for meer thinking, nor admit a bare
‘ intention to be proved by witnesses, yet we often
‘ punish a man for speaking, and admit witnesses to
‘ prove words as well as facts, in order from thence
‘ to infer a malicious intention; and even by a late
‘ statute, we have laid a very severe punishment up-
‘ on an intention; for we have made it transporta-
‘ tion for any man to assault another upon the high-
‘ way, with an intention to rob, whereas it was be-
‘ fore but a common trespass: How this intention is
‘ to be proved I shall not pretend to determine; but
‘ I suppose, if the man who made the assault utter-
‘ ed only these two words (*your money*) and his ut-
‘ tering of such words were proved in court, it
‘ would be deemed a full proof of his intention,
‘ and that action which in itself is but a common
‘ trespass, would, by these two ugly words, be
‘ made felony and transportation. But this is not
‘ the only case where words may be proved, in or-
‘ der to shew the intention of the speaker, and con-
‘ vict him of the crime for which he stands indicted
‘ or accused; for we know, that in all trials of
‘ murder, there is nothing more common than to
‘ prove threatening words made use of by the person
‘ indicted, in order to shew that he had an intention
‘ to murder; and by an act of his late Majesty’s
‘ reign, which makes it felony to tear or spoil any
‘ person’s cloaths in the streets, it is farther enacted,
‘ that whoever shall wilfully and maliciously assault
‘ any person in the public streets or highways, with
‘ an intent to tear or spoil the cloaths of such person,
‘ shall, upon conviction, suffer as in the case of fe-
‘ lony: In which last case, the intention of the per-
‘ son

‘ son accused, can be proved by nothing else but by
‘ some words or threats uttered by him before, af-
‘ ter, or at the time of the assault ; for if he had
‘ proceeded to an overt act, if he had actually torn
‘ or spoiled the person’s cloaths, he would be with-
‘ in the former part of that law, and consequently
‘ there would be no occasion for proving his inten-
‘ tion. Nay, even high treason itself may be com-
‘ mitted by words, without any overt act ; for by
‘ an act of Queen *Elizabeth*, who had, I believe,
‘ as great a regard for our constitution as ever any
‘ King or Queen had, it is declared, that whoever
‘ shall, by any speech, maintain the jurisdiction of
‘ the bishop of *Rome*, shall for the first offence be
‘ guilty of a *Præmunire*, and of high treason for the
‘ second ; and in all crimes whatever, according to
‘ the whole tenour of our laws, it is the intention
‘ only that is to be punished, which intention must
‘ be made appear from circumstances, and those
‘ circumstances may consist in words spoken, as
‘ well as overt acts committed by the person accu-
‘ sed.

‘ With this view, my Lords, let us consider that
‘ clause in the bill now before us, which has been
‘ principally objected to. By that clause it is pro-
‘ posed to be enacted, that if three or more are as-
‘ sembled with fire-arms or other offensive weapons,
‘ with an intention to run any goods or merchandize,
‘ or to watch for opportunities for that purpose ; or
‘ with an intention to carry off or rescue any run
‘ goods or merchandize, or to wound or murder a-
‘ ny of his Majesty’s officers, a justice of peace, up-
‘ on information to be given upon oath, may com-
‘ mit them without bail or mainprize ; and such
‘ persons, if convicted by due course of law, are to
‘ be transported as felons. From these words is it
‘ not plain that the informer, as well as all the other
‘ witnesses, must swear to some overt acts commit-
‘ ted, or some words spoken, by the persons against
‘ whom

‘ whom they swear, or to some other circumstances
‘ from whence this intention may be probably in-
‘ ferred? Can we suppose that any justice would
‘ commit, or any jury convict the persons accused,
‘ upon the informer’s barely saying he knew they
‘ had such an intention, without giving any account
‘ of his reasons for saying so? And if he gives such
‘ reasons as must make every man believe they had
‘ such an intention, do not they deserve to be com-
‘ mitted? Can we suppose it possible that such rea-
‘ sons can be given against an innocent man? At
‘ least I am sure it is no more possible in this case
‘ than in any other criminal case whatsoever. And
‘ if you think proper to make this crime felony,
‘ and the punishment transportation, it is neither in-
‘ consistent with our constitution, nor contrary to
‘ our laws, to have such a person committed with-
‘ out bail or mainprize; because wherever such a
‘ punishment is to be inflicted, no bail can in any
‘ case be taken; the person accused must, in all
‘ such cases, remain in prison till he be acquitted by
‘ due course of law.

‘ As to the rewards which are by this act to be
‘ given to informers, I can see no reason why we
‘ should be more afraid of them in this case than in
‘ any other; for it is certain that in many criminal
‘ cases, even where the punishment is death, there
‘ are rewards given to informers, by the laws and
‘ customs of this kingdom: From such rewards we
‘ have experienced great benefit, with respect to the
‘ discovering, apprehending, and punishing of cri-
‘ minals, and we have not yet found any danger
‘ accruing therefrom to innocent persons, nor can
‘ any danger be well supposed; for if two or three
‘ rogues should combine together, in order to accuse
‘ an innocent man, they have generally been, and
‘ always may be made to contradict themselves, or
‘ one another, in some of the circumstances they re-
‘ late; and the evidence of one man, especially a
‘ poor

‘ poor low fellow, which we must suppose any such
‘ rogue to be, will never be of weight enough with
‘ a jury, to convict a man of any tolerable charac-
‘ ter. In the present case it will be the same ; the
‘ informer must give his reasons, for saying that the
‘ person accused had such an intention, those reasons
‘ must either be facts he saw, or words he heard ;
‘ as to both these, he may be obliged to tell all the
‘ particular circumstances, some of which the per-
‘ son accused, may be able to prove false, or the
‘ false informer may probably be made to contradict
‘ himself, unless he has a better memory than liars
‘ usually have : Even if the informer should give but
‘ this only reason, that the person accused told him
‘ so : In the first place, it is not very probable a
‘ justice or a jury would believe him, without several
‘ concurring circumstances ; but besides, he would
‘ be obliged to give an account when and where,
‘ and upon what occasion, the person accused told
‘ him so ; with respect to which, it would hardly
‘ be possible for him to form such a story as might
‘ appear probable ; and at the same time such a one,
‘ as the person accused could no way contradict by
‘ proper evidence.

‘ With respect to the liberty of applying to the
‘ King’s courts in *Westminster-hall*, I cannot think it
‘ is by this bill, to be taken away from any of the
‘ King’s subjects, nor can I think, that the *Habeas*
‘ *Corpus* act is in any case to be repealed : The jus-
‘ tice of peace is impowered to commit without bail
‘ or mainprize, as he may do in capital cases as well
‘ as this ; but the trial must be before the King’s
‘ courts, either in *Westminster-hall*, or at the assizes ;
‘ and I am sure it will not be pretended, that any
‘ of the King’s courts ought, or would admit a man
‘ to bail, who upon conviction, is by express sta-
‘ tute to be transported. Indeed, if the justice
‘ should be guilty of error or iniquity in the com-
‘ mitment, the court of *King’s-bench* might in that
‘ case

‘ case give relief, and any person to be committed
‘ under colour of this bill, might, in my opinion,
‘ bring his *Habeas Corpus* for that purpose, in the
‘ same manner as in other the like cases; and if the
‘ trial of any person to be committed by this bill,
‘ should not be brought on in the usual time, I can
‘ find nothing in the bill, to prevent his taking the
‘ benefit of the *Habeas Corpus* act, and getting him-
‘ self discharged in pursuance of that act.

‘ Having thus shewn, that no innocent man can
‘ be in danger, either of being committed or con-
‘ victed from this clause, any more than from any
‘ other penal law now subsisting; I may, I think,
‘ conclude, that no innocent man can be by this bill
‘ frightened from travelling with arms whenever he
‘ has a mind, and therefore it cannot with the least
‘ propriety, be called a bill for disarming the people
‘ of *Great Britain*. But I must take notice, that
‘ even as the law stands at present, if an informa-
‘ tion were given, to any justice of the peace, that
‘ a man intended to be aiding and assisting in some
‘ treasonable practices, whether with arms or with-
‘ out, and the informer should give such circum-
‘ stances as ought to gain credit from a reasonable
‘ man, such justice would be deficient in his duty,
‘ if he did not examine immediately into the affair
‘ and commit the person informed against, if he
‘ saw any cause for so doing; which he might cer-
‘ tainly do, even as the laws stand at present, and
‘ therefore, there is no occasion for any new law for
‘ this purpose, nor would the passing such a law be
‘ any incroachment upon our constitution; and if
‘ any person impeached by any such information,
‘ should upon a fair and open trial be convicted of
‘ treason, the informer would expect, and would
‘ really deserve a much better reward, than any pro-
‘ posed by this bill; so that the promising of a re-
‘ ward by act of Parliament, can be of no great
‘ consequence in any case, because a rogue will be

‘ as ready to perjure himself for a reward expected
‘ and commonly given, as he will be for a reward
‘ expressly promised by act of Parliament.

‘ Let us consider, my Lords, that by the bill now
‘ before us, there are two sorts of offences to be
‘ corrected, which were not before made liable to
‘ any punishment. The first is, an assembling to
‘ the number of three or more, armed with firelocks,
‘ or other offensive weapons, in order to be aiding
‘ and assisting in the running of goods or deforcing
‘ of officers ; the other is, a lurking or loitering in
‘ any place without arms, but for the same purposes ;
‘ and as the former is an offence much more heinous
‘ than the latter, therefore it is by this bill to be
‘ subjected to a much higher punishment ; which
‘ punishment cannot, I think, be deemed too se-
‘ vere ; for if such men had put their design in ex-
‘ ecution, if they had been actually assisting in any
‘ such purposes, they would be guilty of felony by
‘ the laws as they stand at present, and I cannot
‘ think there is any severity in extending the punish-
‘ ment to the intention, when it is proved, that a
‘ man has armed himself and made ready for put-
‘ ting that intention in execution ; for in all crimes,
‘ it is the intention, and not the action, which is
‘ principally to be regarded ; therefore, the punish-
‘ ment intended by the amendment would, in my
‘ opinion, be far from being adequate ; at least, if
‘ it be an adequate punishment for this crime, it
‘ must certainly be too severe for the other offence,
‘ of loitering and waiting without any arms, and
‘ without assembling in such numbers ; because any
‘ violence committed, or intended to be committed
‘ with an armed force, ought always to be more se-
‘ verely punished, than the same sort of violence
‘ committed, or intended to be committed without
‘ any such force.

‘ For

‘ For my part, my Lords, I must think that
‘ transportation would be a very moderate punish-
‘ ment for endeavouring to run goods, without pay-
‘ ing those duties imposed by law, or to rescue them
‘ after they have been legally seized, even without
‘ arms, or without an intention to make use of any
‘ mortal weapon ; but when men provide arms for
‘ this purpose, it shews they design to murder as
‘ well as smuggle ; nay, I must really look upon it
‘ as a sort of treason ; for it is in some manner a
‘ levying of war against the King, and we know,
‘ that a consultation advisedly held for that purpose,
‘ has been always reckoned, and long since declared
‘ by statute, to be high treason : And, farther, if
‘ we consider the numbers of men that have some-
‘ times assembled together in arms for smuggling
‘ purposes, we must have the more reason to con-
‘ clude, that it is a sort of treason, in which case we
‘ may with a great deal of freedom, inflict the pu-
‘ nishment of transportation, upon three or more’s
‘ assembling together, with any such intention ; for
‘ such a number cannot assemble together for such
‘ a purpose, without a previous consultation ; which
‘ is a sort of overt act that may be proved, and has
‘ often been admitted to be proved, in order to con-
‘ vict a man of high treason. A month’s con-
‘ finement in a correction house, tho’ attended
‘ with the severest sort of whipping, which it
‘ would never be, would for these reasons be very
‘ far from being an adequate punishment for
‘ the first offence designed to be corrected by this
‘ bill, and it would be still farther from being effec-
‘ tual for the end intended. A raw country-fellow,
‘ or a poor labouring man, may for a reward be
‘ easily drawn in, to be assisting in the running of
‘ goods, where no force or violence is intended, and
‘ may for that purpose, be prevailed on to loiter and
‘ wait without arms somewhere near the sea-coasts ;
‘ for such a man, a month’s confinement and whip-
‘ ping

‘ ping may be a sufficient admonition, he may be
‘ thereby reclaimed, and frightened from ever en-
‘ gaging again in such practices ; but he must be
‘ an experienced and a hardened rogue, who arms
‘ himself for such purposes, and prepares to murder
‘ rather than be disappointed ; it cannot well be ex-
‘ pected, that such a fellow will be reclaimed by
‘ whipping or hard-labour ; so soon as he gets loose
‘ and meets with his former companions, he will
‘ probably return to his former practices. These
‘ are the fellows who give our civil government the
‘ greatest disturbance ; these are the fellows who do
‘ the greatest injury to the revenue, and to the fair
‘ trader ; and these are the fellows against whom this
‘ bill is principally designed : As it is very difficult
‘ for the smugglers to make up and form a gang of
‘ such disciplined and veteran troops, the only way
‘ of putting an end to such fraudulent and violent
‘ practices, is, by breaking those gangs as fast as they
‘ begin to form themselves, which can only be done
‘ by death or transportation ; and as our present go-
‘ vernment always chuses to try first the mildest me-
‘ thod, therefore the latter method of breaking these
‘ gangs is proposed by this bill.

‘ I hope, my Lords, I have now shewn, That
‘ the clause objected to, is no way inconsistent with
‘ our constitution, nor with the liberty or safety of
‘ any innocent subject ; that the punishment propo-
‘ sed, is so far from being too severe, that it is the
‘ mildest punishment we can propose, if we have
‘ a mind to provide an effectual remedy for the evil
‘ complained of ; and that the amendment proposed
‘ would be very far from being an adequate punish-
‘ ment, or an effectual remedy against that evil, by
‘ which we suffer the most, and against which this
‘ bill is principally designed. These things I am
‘ myself fully convinced of, and therefore I cannot
‘ agree to the amendment proposed to be made to
‘ this

‘ this clause, nor to any of the other amendments
‘ which depend upon the first.

‘ As to the other clauses objected to, though no
‘ amendments have been proposed in relation to
‘ any of them, yet as they are objections against the
‘ bill in general, I hope your Lordships will give
‘ me leave to offer some of those reasons, why I
‘ think the objections without any solid foundations.
‘ The clause for punishing those who shall be found
‘ armed, and passing within five miles of any sea-
‘ coast or navigable river, with more than six pounds
‘ of tea, five gallons of foreign spirits, or 30 pounds
‘ worth of foreign goods, landed without paying
‘ the duties, is not properly a new law, but only
‘ an amendment of an old, which has hitherto been
‘ found ineffectual, and therefore this amendment
‘ is proposed, in order to remedy the defects of the
‘ former law : The punishment is the same in both,
‘ only the description of the offence in the former
‘ statute has been found to be such, as could never
‘ be proved ; and for that reason, it is absolutely
‘ necessary to alter that description, and to make it
‘ such as may be proved, if you intend to prevent
‘ or punish the offence : This is, I say, absolutely
‘ necessary, and it is impossible to imagine, that a
‘ gentleman, or any man of an established good
‘ character, can suffer unjustly by the description of
‘ the offence, even as proposed by this clause, be-
‘ cause a jury will never believe one single witness
‘ against such a man, and it will be as difficult and
‘ dangerous for two rogues to combine together,
‘ and contrive a feasible accusation against an inno-
‘ cent man in this case as in any other. By the
‘ law, as it stands at present, it is as easy for a noble-
‘ man or a gentleman’s servant, to put a quantity
‘ of run goods into his master’s coach-box, or port-
‘ manteau, and then to inform against him, as it
‘ will be when this bill, as it now stands, shall be
‘ passed into a law ; yet we have never yet heard of
‘ so

‘ so much as an attempt in this way, tho’ it be up-
‘ wards of a dozen of years since the law was passed
‘ for making it felony and transportation for any
‘ man, with offensive arms, to pass within 20 miles
‘ of any coast, with any quantity of foreign goods
‘ in his custody, which had been landed from any
‘ ship, without due entry and payment of the
‘ duties.

‘ The clause which is said to establish a remark-
‘ able difference between his Majesty’s officers and
‘ his Majesty’s subjects, is, my Lords, as necessary
‘ as the former, if you intend that any of the offi-
‘ cers should dare to do their duty within some of
‘ the counties of *England*; and this necessity pro-
‘ ceeds from the great height smuggling has lately
‘ come to, and the vast numbers of men now en-
‘ gaged some way or other in that pernicious trade;
‘ insomuch, that in some of our maritime counties,
‘ the whole people of the county, are so generally
‘ engaged in it, that it is impossible to find a jury
‘ that will upon a trial do justice to an officer of
‘ the revenue, in any case whatsoever; therefore un-
‘ less you agree to this clause, an officer, in any such
‘ county, who faithfully performs the duty of his
‘ office, must expect to be assaulted, and beaten and
‘ bruised, every day of his life; because the peo-
‘ ple of the county know, that he never can recover
‘ a verdict against them; in which case, I must
‘ leave it to your Lordships consideration, whether
‘ you can expect that ever any officer will do his
‘ duty, in endeavouring to suppress smuggling, or
‘ collecting his Majesty’s revenues, either of the
‘ customs or excise.

‘ This clause therefore, my Lords, I must take
‘ to be absolutely necessary; and the other clause,
‘ in relation to the bailing of officers and their assist-
‘ ants, who shall happen to kill a man in their own
‘ defence, is, I think, as necessary, and this necessity
‘ proceeds from the same cause with the former;

‘ for in those counties where smuggling is become
 ‘ general, the majority of the coroner’s inquest al-
 ‘ ways consists of smugglers; so that it has been
 ‘ found by experience, that those inquests always
 ‘ bring the officer and his assistants in guilty of
 ‘ murder, even tho’ it be made clearly appear, by
 ‘ the most undoubted testimonies, that the killing
 ‘ happened *se defendendo*; which must be such a
 ‘ discouragement to officers of the revenue, and to
 ‘ all those who assist them, that it cannot be expect-
 ‘ ed they will ever venture their lives, in putting
 ‘ the laws of their country into due execution:
 ‘ Therefore, in both these cases, we are not to run
 ‘ any comparison between his Majesty’s officers, and
 ‘ any of his Majesty’s subjects, but between officers
 ‘ and smugglers; and I hope your Lordships will
 ‘ all agree, that the former deserve more favour
 ‘ than the latter. In the last of these cases, if the
 ‘ officer be within the terms of the clause, if the
 ‘ killing happen *se defendendo*, I think it is most rea-
 ‘ sonable, to order and require the judge to admit
 ‘ him to bail; but if he be not within the clause,
 ‘ of which the magistrate before whom he is brought
 ‘ for that purpose, is the judge, then that magistrate
 ‘ is neither ordered nor required by any words in
 ‘ this bill, to admit him to bail.

‘ I shall readily grant, my Lords, that our trade
 ‘ is of great advantage to this nation, and that we
 ‘ ought to take all possible care to encourage it,
 ‘ and to avoid every thing that may be inconvenient
 ‘ to our merchants or seamen. But this, my Lords,
 ‘ is one of my chief reasons for being for this bill as
 ‘ it stands at present; for our trade cannot be pro-
 ‘ tected if our government be not supported, and
 ‘ our government cannot be supported unless we
 ‘ prevent smuggling, and all other fraudulent prac-
 ‘ tices with respect to that revenue upon which the
 ‘ support of our government depends: Therefore
 ‘ the honest merchant or seaman must bear with
 ‘ those

‘ those few inconveniences which are absolutely ne-
‘ cessary for preventing the fraudulent tricks of the
‘ knavish one ; and in the bill now before us, I am
‘ not only convinced that there are no regulations
‘ but what are necessary, but that there is no new
‘ regulation that can subject any honest merchant
‘ or sea-faring man whatever, to any great inconve-
‘ nience. I am sure the putting of an officer on
‘ board any ship that comes within the limits of a
‘ port, is most reasonable and necessary, and can
‘ never be inconvenient for any ship, unless they
‘ have a mind to run some part of the cargo ; for no
‘ ship comes within the limits of a port, but with a
‘ view to trade there, or to run goods on shore, un-
‘ less when she is forced thither by strefs of weather
‘ or want of provisions : In the first case, I believe no
‘ man will say that it is not necessary to put an offi-
‘ cer on board ; and the last case so seldom happens,
‘ that it cannot well be called an inconvenience. As
‘ for the term limits, I take it to be a term as well
‘ understood among merchants and sea-faring men,
‘ as any term whatever : I suppose every frith and
‘ navigable river, must be within the limits of some
‘ port ; and with respect to our ports upon the
‘ ocean, I suppose the limits of each port extends to
‘ the place where ships bound for that port usually
‘ come to an anchor, in order to wait for a tide or
‘ fair wind for bringing them into port ; so that no
‘ officer can from this clause pretend to search a ship
‘ upon the high seas, nor will any officer dare to
‘ extort illegal fees, or any other illegal considera-
‘ tion ; because if it should be discovered, he would
‘ certainly be dismissed, which is a risque no man
‘ of common sense will run, for the sake of any
‘ small fee he can possibly get from the master of a
‘ ship who has no fraudulent practice in view.

‘ Whether the bill now before us will be altoge-
‘ ther effectual, is what I shall not pretend to deter-

‘ mine, but it will certainly render it more difficult
‘ for smugglers to carry on their fraudulent prac-
‘ tices, and more safe and easy for the officers of the
‘ revenue to do their duty, therefore it will be more
‘ effectual than any law now in being; and if it has
‘ not all the good effect could be wished for, some
‘ new method may be taken for answering those
‘ cases where this bill may appear to be deficient:
‘ But such as it is, it would, in my opinion, be the
‘ most imprudent thing in the world to put off
‘ passing it till next session; for as the first part of
‘ it contains an indemnity for all past crimes in the
‘ smuggling way, if this bill should be put off, the
‘ smugglers would all expect the same sort of in-
‘ demnity by any bill to be passed in the next session;
‘ and the hopes of being indemnified for every crime
‘ they could commit between this and the 27th of
‘ *April* next, would in the mean time render our
‘ present smugglers more bold and enterprising,
‘ and would make every man who could have any
‘ opportunity, endeavour to defraud the public, by
‘ some sort of smuggling practice; from whence we
‘ may conclude that the public would suffer most
‘ prodigiously by any such delay.

‘ With respect to making the bill temporary, no
‘ such clause can be made to relate to the first part
‘ of the bill, which indemnifies those persons who
‘ have been guilty of offences against the laws made
‘ for securing the revenues of customs and excise: It
‘ can only be made to relate to the last part of the
‘ bill, which is to enforce those laws for the future;
‘ and as the last part of the bill, and the future se-
‘ curity his Majesty expects may arise from thence,
‘ with regard to the revenue, is the consideration for
‘ those large sums his Majesty gives up by the first
‘ part of the bill, it would be both unequal and
‘ unjust to make the last part temporary, since the
‘ first must be made perpetual.

‘ I am

‘ I am afraid, my Lords, any amendment we can
‘ make, may occasion the loss of the bill for this
‘ session at least, and therefore we ought to make
‘ as few as possible. I do not think there is one
‘ absolutely necessary; but if your Lordships think
‘ otherwise; if you think it necessary to add a saving
‘ clause for the court of *King’s Bench*, and court of
‘ Justiciary in *Scotland*, with regard to the bailing
‘ of any person committed by vertue of this act, I
‘ shall readily give up my opinion, and agree to the
‘ amendment, but I cannot agree to any of the other
‘ amendments that have been proposed.’

To this it was replied, in substance as follows, *viz.*

‘ My Lords, we are all fully sensible that it is the Reply.
‘ duty of Parliament to grant a revenue sufficient for
‘ supporting the government, and to contrive and
‘ prescribe such methods for raising and collecting
‘ that revenue as may be effectual; but we likewise
‘ know it is the duty of Parliament to support the
‘ constitution, and preserve the liberties of the peo-
‘ ple. Therefore when it begins to appear, that the
‘ methods prescribed by Parliament for raising the
‘ revenues necessary for the support of our govern-
‘ ment, are not effectual for the end intended, nor
‘ can be made so, without endangering our constitu-
‘ tion, those methods ought not to be farther pur-
‘ sued, but methods intirely new ought to be con-
‘ trived and prescribed by Parliament. This is, I
‘ am afraid, our case at present; many of the taxes
‘ we have established, are so very high, in propor-
‘ tion to the prime cost of the commodities upon
‘ which they are laid, that we find it impossible to
‘ get them duly raised and collected, without giving
‘ such arbitrary powers to our government in that
‘ respect, as may very probably render it arbi-
‘ trary in every other; and if this be our case, we
‘ ought to think rather of lowering or abolishing

‘ some of our duties, and raising our public reve-
‘ nues in some other method, than of transporting
‘ and hanging our people, who are criminals by
‘ the temptations we have thrown in their way. But
‘ whatever may be thought fit to be done in our pre-
‘ sent circumstances, I am glad to hear it insinuated
‘ by the noble Lords who are against these amend-
‘ ments, that our public creditors have any sort of
‘ right or concern in the levying of those taxes
‘ which were established for their security, and ap-
‘ propriated to their payment; for if they have any
‘ concern in the levying of them, they have a much
‘ greater concern in the application of them; and
‘ therefore if it be a breach of public faith to allow
‘ the produce of those duties to be diminished by
‘ fraudulent practices, when it is in our power to
‘ prevent it, it is certainly a greater breach of pub-
‘ lic faith to apply them to any other use but that
‘ for which they were originally designed; because
‘ in both cases, a part of that security which was
‘ given by Parliament to the creditors of the public
‘ is taken from them, but in the former case it is
‘ only a sin of omission, whereas in the latter it is
‘ a sin of commission, and is therefore the more
‘ heinous.

‘ It is always with regret and sorrow, my Lords,
‘ that I form to myself any apprehensions of dan-
‘ ger to my native country, and therefore I shall
‘ always avoid it as much as possible; but we have
‘ already created so many new crimes and trans-
‘ gressions, relating to our revenues of customs and
‘ excise, and have inflicted so many new pains and
‘ penalties for preventing those transgressions, that,
‘ in my opinion, the fears of increasing them can
‘ in no case be called phantoms. Our Parliaments
‘ have, it is true, been hitherto able, generally
‘ speaking, to give a check to every wrong use of
‘ any power, and to bring the offenders to condign
‘ punishment; and while our Parliaments continue
‘ to

‘ to be independent of those who have the exercise
‘ of power, their will, as well as their ability, will
‘ continue the same; but we know the effect of
‘ pains, penalties, and pensions, in other countries;
‘ we know that Parliaments, Senates, or assemblies,
‘ have, by such means, been made subservient to
‘ the worst and most tyrannical uses that could be
‘ made of power; and if this should ever unfortu-
‘ nately happen to be our case, our Parliaments will
‘ neither be willing nor able to check the abuse of
‘ any power, nor to punish the offenders. For this
‘ reason we ought to be extremely jealous of load-
‘ ing our people with pains and penalties, or sub-
‘ jecting them to a multitude of penal laws; for
‘ oppression may be easily cloaked under colour of
‘ an act of Parliament, and many may be hanged
‘ or transported under pretence of their having been
‘ guilty of some action made penal by statute, with-
‘ out raising any general murmur among the people,
‘ or giving the alarm to those who do not then
‘ think themselves in danger of any such prosecu-
‘ tion; whereas the least act of oppression, without
‘ any such pretence, would raise a general murmur,
‘ and give an universal alarm, because every man
‘ in the kingdom would think himself in danger.
‘ In this nation no man of common sense will ex-
‘ tend his power of oppression to any great length
‘ till he has got a Parliament to his mind, but when
‘ he has got such a Parliament, his power will then
‘ be without controul, and by subjecting multitudes
‘ of our people who have votes at elections to high
‘ pains and penalties, or to the danger of being pro-
‘ secuted upon penal statutes, we may render it easy
‘ for a man to accomplish this end, which, when
‘ once accomplished, may be, by the same methods,
‘ easily preserved as long as he pleases; for such a
‘ Parliament will never refuse to pass any penal
‘ statute he thinks fit to propose.

‘ No law can be proposed, my Lords, for the
‘ necessity of which some reasons may not be urged ;
‘ even the most tyrannical laws have been made un-
‘ der pretence of preventing or punishing some real
‘ abuse ; but all wise nations have chosen to allow
‘ an abuse to escape unpunished, rather than to make
‘ such a law as might involve the innocent in the
‘ same punishment with the guilty. In this respect
‘ we have been always so cautious, that, tho’ the
‘ intention be principally regarded in all crimes,
‘ yet we have never yet made a law for punishing in
‘ a severe manner, a bare intention, unless when ac-
‘ companied with some unlawful action : Indeed, if
‘ a man has committed any illegal action, our laws
‘ in some cases, allow his intention to be inquired
‘ into by witnesses ; and circumstances, or even
‘ words uttered by him may be proved, in order
‘ to heighten his punishment ; but no words can by
‘ any of our laws subject a man to such a severe pu-
‘ nishment as that inflicted upon felony, unless those
‘ words be accompanied with some sort of action
‘ which is in itself unlawful, or pronounced in such
‘ a solemn and deliberate manner as to imply a sort
‘ of action ; and the reason of this is plain, because
‘ no subject could be safe or easy, if words spoken by
‘ him, perhaps at random, or before but one witness,
‘ could be picked up, and proved against him, in
‘ order to convict him of felony ; for in such a case
‘ a man’s words might often be mistaken, or unfair-
‘ ly related by those that hear him, and no man
‘ could guard against perjury, nor have an oppor-
‘ tunity of justifying himself against a false accusa-
‘ tion : If ever any such custom or law should come
‘ to be established in this kingdom, the happiness
‘ and security of our people would be at an end : We
‘ might expect some time or other, to have infor-
‘ mers as numerous and frequent in our streets, and
‘ in all our public places, as ever the *Delatores* or in-
‘ formers

‘ formers were about *Rome* under their most tyrannical Emperors.

‘ The very cases mentioned by the noble Lords who have spoke upon the other side of the question, evince what I have said to be the standing maxim of the laws of *England*. In the case of murder, the killing of a man, which is in itself an unlawful action, must be proved, and then threatening words or other circumstances may be proved, in order to shew that That unlawful action was committed with an intention to murder : In an assault with an intention to rob, or to tear a person’s cloaths, it is the same ; the assault is in itself an unlawful action, and the intention is allowed to be proved only to aggravate the punishment. In treason, a consultation or conspiracy to murder the King is a sort of overt act, and the manner how that consultation was held must be proved ; for it would be no sufficient proof in this case for informers or witnesses to say, that they had heard the prisoner say he intended to murder the King, or that he had had a consultation for that purpose : And the statute of *Queen Elizabeth* clearly shews, how cautious we have always been, not to subject men to any heavy punishment on account of any words they may unadvisedly utter ; for before a man can be made liable to any of the penalties of that statute, it must be proved, not only that he maintained, but that he advisedly maintained the jurisdiction of the Bishop of *Rome* ; in which case the manner of his speaking, the place where he spoke, and several other concomitant circumstances must be made appear to the court, in order to shew that what the prisoner said was advisedly said ; and when such a proof is laid before any court, it cannot be called a proof of words only, but is likewise a proof of several facts which accompanied the pronouncing of those words. So in a late statute, where words are made criminal, we may see

‘ how

‘ how cautiously our laws are in such cases penned ;
 ‘ for it is enacted, that where any person shall mali-
 ‘ ciously and directly, by preaching or advised
 ‘ speaking affirm, that the pretended Prince of *Wales*
 ‘ hath any title to the crown, such person shall in-
 ‘ cur a *præmunire* ; in this case likewise the inform-
 ‘ ers or witnesses must give an account of the whole
 ‘ circumstances attending the words spoken, in order
 ‘ to shew that they were maliciously, directly, and
 ‘ advisedly spoken ; and as a farther security for
 ‘ the subject against false accusations, it is by the
 ‘ same act provided, that no person shall be prose-
 ‘ cuted for words so spoken, unless information be
 ‘ given on oath in three days after the words spo-
 ‘ ken, and the person prosecuted within three months
 ‘ after the information given : In both these cases
 ‘ therefore, the words made criminal, imply a sort
 ‘ of action ; for several concomitant facts must be
 ‘ proved, in order to shew that the words were advi-
 ‘ sedly spoken.

‘ Let us now, my Lords, compare these cases
 ‘ with the case now before us. The words of the
 ‘ bill now before us, are, “ That upon information
 ‘ “ to be given upon oath, before any one or more
 ‘ “ justices of the peace, that any persons, to the
 ‘ “ number of three or more, are, or have been as-
 ‘ “ sembled for any of the purposes aforesaid, and
 ‘ “ are, or have been armed with fire-arms or other
 ‘ “ offensive arms or weapons, such justice may grant
 ‘ “ his warrant, and upon such person’s being brought
 ‘ “ before him, may, if he, upon due examination, finds
 ‘ “ cause, (that is, if he thinks fit,) commit them to
 ‘ “ the next county jail, without bail or mainprize,
 ‘ “ till discharged by due course of law.” Then come
 ‘ the words for their trial and condemnation, which
 ‘ are, “ That such persons, upon due proof of their
 ‘ “ being armed and assembled, in order to be aiding
 ‘ “ and assisting, in the clandestine running, landing,
 ‘ “ rescuing or carrying away prohibited or uncustom-
 ‘ “ ed

“ ed goods, and upon conviction thereof, shall be
“ adjudged guilty of felony.” Do not your Lord-
“ ships see, that in this case men are to be com-
“ mitted for a bare intention, without their having
“ deserved to be brought into that jeopardy by any
“ one overt illegal act whatsoever. I shall grant
“ that if the justice understands the spirit of our
“ laws, and acts justly, he will examine the infor-
“ mer narrowly as to circumstances, and will not
“ commit, unless the informer gives good reasons for
“ saying, that those he informed against had such an
“ intention; but the words of this clause make no
“ such precautions necessary: We are not now to in-
“ quire what the justice ought to do, but what he may
“ do, and I will say, that, by these words, an infor-
“ mation upon oath, that such persons were assem-
“ bled and armed with such an intention, without af-
“ signing any reasons, without relating any circum-
“ stances, will be a sufficient authority for the com-
“ mitment, and will excuse the justice from all the
“ penalties of false imprisonment; therefore if the
“ justice has any malice against the persons brought
“ before him, or has a job of his own to gain by it,
“ or be a tool of those that have, are we not to sup-
“ pose that he will commit the persons against whom
“ he has such an information? And may we not
“ suppose that such informations may be cooked
“ up, and persons of great note committed, in
“ order to carry an election for members of Parlia-
“ ment?

“ Then as to the trial, my Lords, is not here a
“ man to be tried, and brought into great danger of
“ being condemned, and for no less a crime than
“ felony, upon a bare intention, and without his ha-
“ ving ever deserved to be brought into such a dan-
“ ger by any overt illegal act whatsoever? Can we
“ say that any subject is safe, who may, upon ma-
“ licious information, which he cannot disprove, be
“ brought into such danger. I say, my Lords, an
“ infor-

information which he cannot disprove, for this will always be the case. Suppose three Gentlemen out a shooting, or travelling upon the road with arms for their defence: Suppose they meet a malicious or an avaricious rogue in the fields, or upon the highway, and ask him several questions about the game in that neighbourhood, or about the roads: May not that rogue go before a justice and inform, that they then told him they were upon the smuggling lay, and offered him money to join with them? I should be glad to know how these three gentlemen could disprove this information. I could suppose twenty such cases without any very fruitful imagination: But in this case, let us suppose farther, that some persons at a distance saw these three gentlemen speak to this rogue, and were brought to prove this circumstance upon the trial: That a ship was then hovering upon the coast, and some run goods found concealed the very next day near the place: Would not these circumstances contribute greatly to the conviction of the gentlemen? Nay, the rogue himself might mention every one of them in his information, in order to convince an honest justice. My Lords, it is a most dangerous situation for any man to have his estate and liberty depending upon the opinion a jury may conceive of his character, in opposition to the oath of another man: And in this case it is more dangerous than any other; because a man, otherwise of the best of characters, and of opulent circumstances, may be presumed to have had an intention to smuggle, whereas no jury would presume or easily believe, that such a man could have an intention to rob upon the highway, or to tear people's cloaths: Then with respect to the informer, if he were a low mean fellow, no jury would believe that any man would attempt to rob him upon the highway, nor would a jury easily presume that a man of good circumstances would impart to him his intention

‘ intention relating to any other crime ; but in smug-
‘ gling, men of the best circumstances often employ
‘ mean fellows, and therefore a jury may the more
‘ easily presume, that such a fellow was in that case
‘ privy to the design of the richest man in the king-
‘ dom. Thus your Lordships may see what dan-
‘ gers, what undeserved dangers, the best of the
‘ King’s subjects may be brought into by this clause ;
‘ and here are none of those cautionary words, none
‘ of those cautionary provisos, which are in any of
‘ our penal statutes relating to words : If a man’s
‘ intention to smuggle is to be taken from words
‘ spoken by him, it is not made necessary to prove
‘ that those words were directly or advisedly spoken ;
‘ nor is there any limitation, as to the time when
‘ the information is to be made, or the prosecution
‘ commenced : An accusation may be contrived, and
‘ witnesses prepared to prove, that a man had such
‘ an intention at a certain time ten years before ; in
‘ which case it will be impossible for him to remem-
‘ ber, much more to prove, where he was, with
‘ whom he was, what he was a doing, or any other
‘ circumstance that can contribute to his vindica-
‘ tion.

‘ I hope I have set this danger in so clear a light,
‘ that your Lordships will think it a danger, to
‘ which the people of this kingdom ought not to be
‘ exposed, for the sake of collecting any duty they
‘ have now the misfortune to labour under, even
‘ though informers were not to be encouraged by
‘ any reward, either promised or expected : There
‘ are many causes, from whence false accusations
‘ may arise, besides rewards in money : Private
‘ malice, private law-suits, contests about elections
‘ of any kind, and that which is the most dangerous
‘ of all, the spleen of a minister against those who
‘ oppose him strenuously in the worst of his measures,
‘ may propagate false informations, when it is made
‘ so easy to contrive them, so as to render it impossi-
‘ ble

‘ ble to convict the informer of perjury, or to sue a
‘ tool of a justice for false imprisonment ; and when
‘ men are exposed to such dangers, when men are
‘ by law made liable to such false and vexatious in-
‘ formations at the suit of the crown, you cannot
‘ expect that any private man will act boldly and
‘ strenuously, in any election for members of Par-
‘ liament, against that which is now called, and may
‘ sometime hereafter be properly and truly called the
‘ court interest : But this danger, great as it is, is
‘ greatly enhanced by the following clauses, which
‘ pledge the public faith, and give to every informer,
‘ who shall be so cunning as to convict his man, a
‘ title by act of Parliament to a reward of 50*l.* for
‘ every man he shall so convict. Such rewards are
‘ in all cases dangerous : We have already had in-
‘ stances of false informations made for the sake of
‘ the reward, in the case of robbery, where it is very
‘ difficult to set up any such prosecution ; some have
‘ been already discovered, but we are not sure that
‘ all such have. If there were no difference between
‘ a reward expected, and a reward promised, there
‘ would never be an occasion to promise any such
‘ thing ; but in either case, I say, a reward is of the
‘ most dangerous consequence, when promised to, or
‘ expected by a man, who is to be an evidence a-
‘ gainst the prisoner, and not to be intitled to any
‘ reward unless the prisoner be convicted ; therefore
‘ such rewards ought neither to be promised nor
‘ given, but upon very extraordinary occasions ; and
‘ in every case, where the witness does but expect a
‘ reward, either upon the acquittal or condemnation
‘ of the prisoner, it is certainly, by all the laws in
‘ the world, a good reason for giving no credit to his
‘ testimony.

‘ Whether a man, who may be committed by
‘ virtue of this clause, will be intitled to his *Habeas*
‘ *Corpus*, is what I shall not now inquire into, since
‘ it seems to be agreed to add a saving clause ; but
‘ can

‘ can it be thought that it is no hardship upon a man
‘ to lie in jail, till he can be relieved by the court
‘ of *King’s bench*, which may, when he is at a great
‘ distance from *London*, be above two months; and
‘ yet not to have it any way in his power to punish
‘ the justice, who committed him without a just
‘ cause, nor the informer who swore falsely against
‘ him; therefore, I hope your Lordships will not
‘ think that a saving clause, with respect to bail will
‘ be sufficient to guard the subject, against the inju-
‘ ries that may be done them, by means of this
‘ clause, should it pass into a law.

‘ From what I have said, my Lords, I think it is
‘ now evident, that if this bill passes into a law, it
‘ will be dangerous for any man in the kingdom to
‘ travel with arms; and therefore it may, as was
‘ said in the beginning of the debate, be justly called
‘ a bill for disarming the people of *Great-Britain*,
‘ in order to preserve their liberties, and make them
‘ pay their taxes; I hope it never will, but it cer-
‘ tainly may, be made a precedent for such another
‘ bill, with regard to treasonable practices; and here
‘ I must take notice, that if an information were
‘ given upon oath to a justice, that a man had armed
‘ himself, in order to assist in treasonable practices,
‘ it would be the duty of the justice, to inquire into
‘ the affair; but unless it appeared by the oath of
‘ some person or other, that That man had actually
‘ committed, or was suspected to have actually com-
‘ mitted, some sort of treasonable practice, the jus-
‘ tice could not commit him; for by our laws, as
‘ they stand at present, there is no such thing as
‘ swearing the peace in cases of high treason; and
‘ therefore upon great and dangerous emergencies,
‘ there is always a temporary law passed, for ena-
‘ bling his Majesty to secure those persons he shall
‘ suspect to be conspiring against him.

‘ With

‘ With regard to the offences intended to be corrected by this bill, I must think that the punishment inflicted upon the first is severe enough for the last: I shall grant that a man who is convicted of having actually been aiding or assisting in the running or rescuing any prohibited or uncustomed goods, and was armed for that purpose, deserves to be made guilty of felony and transported; but I cannot think the intention to smuggle with an armed force, ought to be subjected to the same punishment with the crime itself, especially when that intention is not manifested by any one illegal act. An intention to commit felony, is seldom or ever equally punished with the crime itself; even in the late act against robbery, an assault with intention to rob, is not made liable to the same punishment, as if the robbery had been actually committed, tho’ the intention be manifested by an overt illegal act; and tho’ the smugglers may perhaps be as loth to part with a disciplined gang, as we are to part with a disciplined regiment; yet I shall never be for declaring any one of my countrymen guilty of felony, upon a suspicion, or even the clearest proof, that he intended only to be one of that gang, but had never engaged in any action, so far as was made appear to me; I think it is time enough to do this, when he is proved to be a veteran, by having been at least once in action; and as the sending them for a month to a correction-house, will prevent their executing their intention at least for that time, and as this may be repeated by the diligence of the officers and magistrates, as often as they form any such new intention, I hope it will be in a great measure effectual; therefore, I am for making it the only punishment; for tho’ I am against smuggling as much as any Lord in this house, yet I have such a tender regard for my countrymen, that I cannot agree to subject the innocent to great
‘ and

‘ and unavoidable dangers, for the sake of punish-
‘ ing the guilty.

‘ Now, my Lords, with regard to the other
‘ clauses objected to, give me leave to make some
‘ observations upon the excuses that have been made
‘ for them. As to the clause for making smugglers
‘ of all those who shall be found passing with more
‘ than six pounds of tea, five gallons of spirits, or
‘ 30*l.* worth of any other foreign goods, without a
‘ permit, or without having paid the duty; if it
‘ be designed only as an amendment of a former
‘ law, it clearly shews how fast we improve in ren-
‘ dring our laws severe, arbitrary, and dangerous.
‘ The law here referred to is, I suppose, that which
‘ was passed in the 8th of his late Majesty’s reign,
‘ by which it is, among other things enacted,
“ That all persons passing, knowingly and witting-
“ ly, with any foreign goods, landed from any
“ ship, without due entry, and payment of the du-
“ ties, in their custody, within 20 miles of our
“ coasts, and shall be more than five in company,
“ or shall carry any offensive arms, or wear any
“ vizard, or other disguise, when passing with such
“ goods; or shall forcibly hinder the officers in
“ seizing them, shall be guilty of felony, and be
“ transported:” This law is, and was at the time of
‘ passing, deemed a severe law; but let us examine
‘ the provisions here made, for the security of the
‘ innocent subject: It must be proved, that the per-
‘ son accused, was passing with such goods, know-
‘ ingly and wittingly, that is, it must be proved
‘ not only that the goods taken in his custody were
‘ run goods, but that he knew them to be run goods,
‘ and it must be expressly proved that the goods were
‘ in his custody: It must be proved, I say, that the
‘ goods taken in his custody, were actually run from
‘ some ship, without due entry and payment of the
‘ duties; and it must be proved, that they were
‘ seized within 20 miles of the sea coast, and not in
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‘ any inland part of the kingdom ; and farther it
‘ must be proved, that the person was actually pas-
‘ sing from some sea-coast, and not from one inland
‘ town to another.

‘ These are such proofs, my Lords, as, it cannot
‘ be supposed, could be made against an innocent
‘ man ; but every one of these safeguards for inno-
‘ cence, is by this amending and improving clause
‘ left out ; for by this new clause, if a gentleman
‘ with pistols before him be found riding, almost in
‘ any part of *England*, in company with another
‘ man, who has got seven pounds of tea, or 30
‘ guineas worth of lace in his cloak bag, and who
‘ cannot prove that the tea or lace was duly entered,
‘ and the duties regularly paid, that gentleman, be
‘ what he will, is a smuggler, and guilty of felony,
‘ within the words of this new clause, tho’ he did
‘ not so much as know that his companion had any
‘ goods or merchandize in his custody. The officer
‘ who seizes and prosecutes, has no occasion to prove
‘ that the goods were in the gentleman’s custody, or
‘ that he knew any thing of such goods being in
‘ his companion’s custody : The officer has no occa-
‘ sion to prove that the goods were actually run ;
‘ but the gentleman must prove that the duties were
‘ paid, which will in all such cases be impossible for
‘ him to do, nay, tho’ his companion were really an
‘ honest man, it may be impossible even for him, to
‘ prove that the goods were entered and the duties
‘ paid ; for if he bought them from a shopkeeper,
‘ who was a smuggler, that shopkeeper would cer-
‘ tainly deny that he sold any such goods : And
‘ lastly, the officer has no occasion to prove, that
‘ the gentleman was passing from any sea-coast, or
‘ that the goods were seized within 20 miles of any
‘ sea-coast ; if the gentleman was only passing from
‘ one inland town to another, but unluckily happen-
‘ ed to be within five miles of any navigable river,
‘ which includes many inland parts of *England*,
‘ when

‘ when the goods were seized, he thereby forfeits his
‘ estate and liberty, and even exposes his life to
‘ great danger; for it is not quite so safe, with re-
‘ spect to a man’s health, to travel to any part of
‘ the *West-Indies*, as to travel to *Montpelier* or *Naples*;
‘ and when a man has forfeited his estate, without
‘ making any provision before-hand, which an in-
‘ nocent man will never think of, it is not to be sup-
‘ posed that he can have the conveniences necessary
‘ for preserving his health in his travels.

‘ With regard to the clause relating to assaults
‘ upon officers, I must still look upon it, my Lords,
‘ as a most extraordinary, and a most dangerous
‘ clause, notwithstanding the excuse made for it; be-
‘ cause it is not confined to assaults made by smug-
‘ glers upon officers, or to assaults made upon offi-
‘ cers, in the execution of their office; but it is a
‘ most general clause, and comprehends every quar-
‘ rel or combat that shall happen, as any time, or
‘ in any place, between any one of his Majesty’s
‘ subjects, and any one of his Majesty’s custom-
‘ house or excise officers; and it will certainly en-
‘ courage those officers to provoke people to assault
‘ them, in order that they may from thence have an
‘ opportunity to extort money and raise contribu-
‘ tions upon those they have so provoked. Then
‘ again, the cause assigned for granting such a pri-
‘ vilege to officers, is founded upon a presumption,
‘ which neither can nor ought to be presumed: To
‘ presume that a county or a jury, will not do jus-
‘ tice, may be made a foundation for extending this
‘ privilege to all actions and prosecutions that shall
‘ be brought against, as well as to all that shall be
‘ commenced by any of his Majesty’s officers; and
‘ thus I do not know, but we may at last go so far
‘ as to have all such actions and prosecutions deter-
‘ mined before the commissioners of the customs or
‘ excise, and them only. *Principiis obsta* is a good
‘ rule in all cases, and I think there is a necessity for

‘ observing it in this. The other clause, with
‘ respect to bail, is established upon the same
‘ wrong foundation, and is an alteration of the
‘ common law which may be of the most danger-
‘ ous consequence ; for we know how apt justices
‘ of peace may be made to favour officers, and to
‘ judge that they are within this clause, even when
‘ they have committed the most cruel murders.

‘ As to our trade, my Lords, I will aver, that
‘ there is no nation in the world where merchants
‘ are subjected to so many burdens, dangers, and
‘ inconveniences upon import and export, or where
‘ the laws relating to trade, foreign and domestic,
‘ are so voluminous and incomprehensible as they are
‘ in this ; and if we go on at the same rate, a cap-
‘ tain of a ship will at last be obliged almost to load
‘ his ship with acts of Parliament, before he can be
‘ fully apprised of all the duties he must pay, and all
‘ the directions he must observe, with respect to the
‘ importation and exportation of his goods. I wish
‘ we would consider this, while we have some trade
‘ remaining ; but it does not seem to be much con-
‘ sidered by this bill ; for it will certainly be a great
‘ inconvenience to a master of a ship to have his
‘ hatches opened, his cabin and his ship between
‘ decks rummaged, and all the boxes and bales that
‘ may be there turned topsy-turvy, where he is ly-
‘ ing at anchor, within what may be called the li-
‘ mits of a port, waiting for a calm sea and a fair
‘ wind. The avoiding of this inconvenience will
‘ make masters keep their ships out at sea in a storm,
‘ when they might safely come to an anchor within
‘ the limits of some port, and may consequently
‘ prove the loss of many a *British* ship : And to pre-
‘ tend, that officers will never run the risque of ex-
‘ acting illegal fees or perquisites, or that such officers
‘ will always be dismissed, is pretending to that
‘ which is contradicted by daily experience ; for
‘ wherever there is any such opportunity given, we
‘ find

‘ find it is always taken hold of, and sometimes most
‘ oppressively used.

‘ Thus, my Lords, I think I have shewn, that
‘ every one of the excuses made for the clauses ob-
‘ jected to is without any foundation; and as the bill
‘ in general is of a most dangerous nature, it ought
‘ I think to be delayed till another year. In this
‘ there can be no danger; for no man can depend
‘ upon such a bill’s passing even in the next session,
‘ nor can any man depend upon that bill’s contain-
‘ ing such an indemnity as this does; and it would
‘ be ridiculous to imagine, that any such indemnity
‘ to be then passed, would be granted for all smug-
‘ gling crimes to be committed before the 27th of
‘ *April* next; therefore no man can by such hopes
‘ be induced to engage, in the mean time, in any
‘ smuggling practices.

‘ To imagine that the latter part of this bill is
‘ any sort of consideration for the indemnity which
‘ is granted by the first, is, in my opinion, not con-
‘ sistent with that respect which is due to his Ma-
‘ jesty; for no act of grace or mercy which pro-
‘ ceeds from the crown, ought to be presumed to
‘ flow from the expectation of any valuable consi-
‘ deration, but from his Majesty’s wisdom and
‘ goodness only; therefore the latter part may be
‘ made temporary, without doing any injustice to
‘ the crown: And if we were to look upon the se-
‘ cond part as a consideration for the first, as it
‘ stands at present, I must think it a consideration
‘ of a value by much too considerable; for expo-
‘ sing the constitution to danger, or the innocent
‘ to suffer, if it were but for one year, is, in my
‘ opinion, too valuable a consideration to be given
‘ for an indemnity to all the rogues in the king-
‘ dom.

‘ As for the fears which have been expressed, that
‘ any amendment we may make, may prove the
‘ loss of the bill for this session at least, there cannot

‘ be the least ground for them ; for surely we may
 ‘ make what amendments we please to any act of
 ‘ indemnity ; and if the latter part of the bill be of
 ‘ the nature of those bills, which it is pretended we
 ‘ cannot amend, it ought to have been made a sepa-
 ‘ rate bill, it ought not to have been tacked to a bill
 ‘ of indemnity ; therefore, my Lords, in order to
 ‘ put an end to such pretences, or at least to such
 ‘ practices, we ought, I think, to make as many
 ‘ amendments as we can possibly find any the least
 ‘ occasion for.’

Another a-
 mendment.

Besides the amendments above-mentioned, to which only this debate related, the following amend-ment was offered by the Earl of *Strafford*, viz. Page 30th, line 13th, leave out from (notwithstanding) to (and) in the 26th line.

Which amendment was likewise agreed to in the committee, but flung out upon the report ; and after all the amendments made by the committee were thus disagreed to, then the last clause now standing in the act, relating to the court of *King's-Bench* and court of Justiciary, was proposed to be added, which was agreed to ; and next day, being *Wednesday, May 19th*, the bill was read a third time and passed, upon a division, *Contents* present 36, proxies 18, in all 54. *Not Contents* present 32, Proxies 14, in all 46, whereupon the following protest was entered, viz.

Dissentient.’

Protest a-
 gainst passing
 this bill.

1. **B**Ecause some parts of this bill are so repug-
 nant to the laws and constitutions of this
 kingdom (as we apprehend) that we could not con-
 sistently, with the rules of reason and justice, concur
 in the passing of it ; the substance of one clause in this
 bill being to this effect, viz. ‘ That upon informa-
 ‘ tion before a justice of peace, that any persons, to
 ‘ the number of three or more, who are or have
 ‘ been

‘ been, after the 24th day of *June*, 1736, armed
 ‘ with fire arms, or other offensive weapons, with
 ‘ intent to run goods, such justice shall and may
 ‘ grant a warrant to a constable to apprehend such
 ‘ persons; and if such justice finds cause, upon ex-
 ‘ amination, he shall and may commit them to the
 ‘ next county jail, there to remain without bail or
 ‘ mainprize, until discharged by due course of law;
 ‘ or, upon conviction, they are to be adjudged guil-
 ‘ ty of felony.’ Now as this bill is to create a new
 kind of felony, without limitation of time or place,
 upon principles unknown to our law, we cannot but
 think it should be made so plain and clear, that the
 judges in *Westminster-hall* might determine upon it,
 without doubts or difficulties: But we conceive, as
 this bill now stands, many doubts may arise as to the
 construction of it.

2. Because we do not know of any one act in the
 statute-book, whereby it is put in the power of a sin-
 gle justice of the peace to commit persons, without
 bail or mainprize, upon a bare information, without
 any proof. And although the house found it neces-
 sary, to repeal so much of the clause aforesaid, as al-
 lows the justice to commit without bail or mainprize,
 by adding a rider, ‘ to empower the court of *King’s-*
 ‘ *bench* to grant bail to persons so committed,’ we
 cannot be of opinion, that the objections to the bill
 were removed, since the power of imprisonment still
 remains in the hands of a single justice of the peace,
 upon a bare information of an intent to run goods,
 without any other overt act to prove that intention,
 than what may be a common and innocent circum-
 stance, *viz.* ‘ The riding three or more in company
 ‘ with usual arms, and no limitation fixed either for
 ‘ time or place.’

3. Because this bill was altered in the committee,
 by the unanimous consent of all the Lords present,
 ‘ and

and those alterations were disagreed to upon the report, without sufficient grounds, as we conceive: And as two noble and learned Lords, who preside in the two greatest courts of the kingdom, shewed by the strongest arguments, that the bill, as it now stands, may be dangerous to the liberties of our fellow subjects, we could not agree to the passing of it, however expedient or necessary it may be supposed in other respects; being fully persuaded it would have been better to have left this matter to the laws now in being (already very severe) and to the consideration of a future session of Parliament, than to constitute a precedent of such dangerous consequence, and to enact a law, which, as we fear, may be attended with perpetual grievances, injustice, and oppression.

<i>Foley,</i>	<i>Shaftsbury,</i>	<i>Oxford and Mor-</i>
<i>Warrington,</i>	<i>Weymouth,</i>	<i>timer,</i>
<i>Strafford,</i>	<i>Beaufort,</i>	<i>Litchfield,</i>
<i>Montjoy,</i>	<i>Bolton,</i>	<i>Bathurst,</i>
<i>Coventry,</i>	<i>Cobham,</i>	<i>Winchelsea and Not-</i>
<i>Northampton,</i>	<i>Thanet,</i>	<i>tingham.</i>

Speakers.

The speakers in the several debates which happened in the house of Lords, on occasion of this bill, were as follow, *viz.* Against the bill, or for the amendments, where the Lord Chancellor, the Lord *Hardwick*, the Lord *Carteret*, the Lord *Bathurst*, and the Earl of *Strafford*; and those who spoke for the bill, and against the amendments, were the Duke of *Argyle*, the Earl of *Ilay*, the Earl of *Cholmondeley*, and the Lord *Harvey*.

Amendment objected to in the other house.

On the 20th of *May* this bill was returned to the house of Commons, when they took into their consideration the amendment made by the house of Lords; and the said amendment being twice read, Mr. Speaker stood up and acquainted them, ' That
' when

‘ when any thing occurred which might any way
‘ look like an incroachment upon the privileges of
‘ that house, he thought it was his duty to lay the
‘ case impartially before them, and then to leave the
‘ house to do in it as they should think fit. That in
‘ all bills, by which any tax or duty was to be im-
‘ posed upon the subject, it was the undoubted pri-
‘ vilege of that house, and they had always insisted
‘ upon it, that the other house should not make any
‘ the least amendment to any such bill; but were in
‘ all such cases, either to pass the bill without any
‘ amendment, or to reject it if they thought fit:
‘ That as the taxes and duties granted by that house,
‘ could not be raised or collected without prescribing
‘ proper and effectual methods for that purpose,
‘ therefore in all bills for imposing any tax or duty
‘ upon the subject, certain methods had been pre-
‘ scribed, for effectually raising that tax or duty;
‘ and if the methods prescribed should afterwards,
‘ by experience, be found ineffectual, new methods
‘ had always been contrived, and proper bills passed
‘ for establishing those new methods; which last sort
‘ of bills had generally been looked on as an appen-
‘ dix or appendixes to the first bill, by which the
‘ tax or duty was granted; therefore such bills were
‘ looked upon as bills of the same nature with the
‘ first, and consequently that house had generally in-
‘ sisted upon it, that the other house could not make
‘ any amendment to this last sort of bills, no more
‘ than they could have done to the bill by which the
‘ tax or duty was granted: That as the bill then be-
‘ fore them, was for enforcing the laws made for
‘ securing the revenues of customs and excise, it was
‘ properly to be considered as an appendix to the
‘ laws by which those revenues were originally esta-
‘ blished; and as the other house had made an a-
‘ mendment to it, he did not know but their making
‘ any amendment to such a bill, might be looked on
‘ as some sort of incroachment upon the privileges
‘ of

‘ of that house ; for which reason he thought it his
 ‘ duty to state the case to them, before they pro-
 ‘ ceeded to take the amendment into their consider-
 ‘ ation. That he hath searched the journals of the
 ‘ house for cases of the same nature, and would read
 ‘ such of them as he thought most applicable to the
 ‘ case then before them.’

Agreed to.

Upon this, several journals of the house were read, relating to amendments made by the house of Lords to money bills, or bills of the same nature ; and after reading those journals, there was a debate in the house in relation to their privileges ; but at last the question was put for agreeing to the amendment, which was carried in the affirmative, and Mr. Attorney General was ordered to carry the bill to the Lords, and acquaint them, that That house had agreed to the amendment made by their Lordships.

Repeal of the
 test act mo-
 ved for.

ON *Friday* the 12th of *March*, a motion was made in the house of Commons by *Walter Plumber, Esq;* ‘ That an act made in the 25th
 ‘ year of the reign of King *Charles II.* intituled, *An*
 ‘ *act for preventing dangers which may happen from*
 ‘ *Popish recusants*, might be read ;’ and the same being read accordingly, a motion was made by the same gentleman, ‘ That leave might be given to
 ‘ bring in a bill to repeal so much of an act passed
 ‘ in the 25th year of the reign of King *Charles II.*
 ‘ intituled, *An act for preventing dangers which may*
 ‘ *happen from Popish recusants*, as obligeth all per-
 ‘ sons, who are admitted into any office civil or
 ‘ military, to receive the sacrament of the Lord’s
 ‘ supper, within a time limited by the said act, and
 ‘ for explaining and amending so much of the said
 ‘ act, as relates to the declaration against transub-
 ‘ stantiation.’

In both these motions he was seconded by Sir *Wilfrid Lawson*, Baronet, but the last motion being opposed, a long debate ensued, in which the arguments for the motion were in substance as follow, viz.

‘ Sir, I believe all the gentlemen that hear me
‘ may easily judge, with what view I have desired
‘ this act to be read to you. It is, Sir, with a de-
‘ sign to have some part of it repealed, and another
‘ part so amended and explained, as to make it con-
‘ sistent with that charity and good nature which e-
‘ very member of the christian religion ought to shew
‘ to another ; but before I make a motion for that
‘ purpose, I must beg leave to give you some of
‘ those reasons which have induced me to be for what
‘ I am now going to propose.

Argument
for the mo-
tion.

‘ The motion I am now to make, Sir, proceeds
‘ chiefly from these three considerations, That I am,
‘ and I hope shall always be, an utter enemy to all
‘ manner of persecution ; that I have a great regard
‘ and reverence for that solemn and religious institu-
‘ tion, called the sacrament of the Lord’s supper ;
‘ and that I shall always be for every thing which I
‘ think may tend towards establishing and preserv-
‘ ing the unity, peace, and trade of my country.
‘ These are considerations which, I am persuaded,
‘ are of as great weight with every gentleman in
‘ this house as they are with me ; and therefore, if
‘ I can shew that there is any thing in this act that
‘ looks like persecution ; if there is any thing in it
‘ that brings a contempt upon that holy institution
‘ of our religion, the sacrament of the Lord’s sup-
‘ per ; or if there is any thing in it inconsistent with
‘ the unity and peace of our people, or with the
‘ trade of our country, I make no doubt of having
‘ the unanimous assent of this house to the repeal
‘ and amendment I am to propose ; and, in my opi-
‘ nion, it would contribute greatly to the glory of
‘ this

‘ this generation, as well as to the honour of this
‘ house of Commons, to have it agreed to *nemine*
‘ *contradicente*.

‘ I hope, Sir, it will be granted me, that the
‘ subjecting a man to a great penalty, if he refused
‘ to subscribe to any opinion which he thought incon-
‘ sistent with the christian religion, or to join in any
‘ ceremonies of public worship, which he thought
‘ sinful or perhaps idolatrous, would be a very hea-
‘ vy persecution; and I hope it will likewise be
‘ granted, that to render a man, upon any such ac-
‘ count, incapable of holding a land estate, or of
‘ succeeding to any estate as next heir, or next of
‘ kin, would also amount to a high degree of perse-
‘ cution: Now in this statute which has been read
‘ to you, there is one clause which enacts, That all
‘ persons that shall bear office civil or military, or
‘ receive any salary or wages by any grant from the
‘ King, or shall have command or place of trust
‘ from or under him, or shall be in his navy or
‘ household, in *England, Wales, Berwick, Jersey* or
‘ *Guernsey*, shall not only take the oaths of supre-
‘ macy and allegiance, in the next term, or at the
‘ quarter sessions, within three months after their ad-
‘ mittance, but shall receive the sacrament of the
‘ Lord’s supper, according to the usage of the church
‘ of *England*, of which they are to be deliver a certifi-
‘ cate, and make proof, at the time of their taking
‘ the said oaths; in failure of which, they are *ipso*
‘ *facto* disabled to enjoy the said offices or employ-
‘ ments, or any profit thereby: And by another
‘ clause, persons beyond the seas, or under any of
‘ the other impediments there mentioned, are to re-
‘ ceive the sacrament and take the said oaths, with-
‘ in four months after such impediment removed.
‘ By this regulation it is evident, that no man can
‘ hold or enjoy any office or employment, civil or
‘ military, without declaring himself a member of
‘ the church of *England*, as by law established; and
‘ as

‘ as there are great numbers of faithful subjects who
‘ have the misfortune of believing, that some of the
‘ opinions established by our church are not intirely
‘ consistent with christianity, and that some of our
‘ religious ceremonies tend towards idolatry, such
‘ men cannot religiously and sincerely communicate
‘ with the established church; upon which account,
‘ and upon that only, they may therefore be sub-
‘ jected to penalties, or deprived of a yearly reve-
‘ nue, according to the nature of the office they
‘ may be named or intitled to; for if the post or
‘ office be such a one as is attended with trouble
‘ only, there is generally a penalty upon a man’s
‘ refusing to serve it; which penalty every man
‘ must pay who is not a member of the church of
‘ *England*; because by this cause he is debarred from
‘ serving the office; whereas if it were not for this
‘ incapacity he is laid under, he might probably
‘ chuse to serve the office rather than pay the pe-
‘ nalty; and I would be glad to know the differ-
‘ ence between subjecting a man directly to a penalty
‘ for refusing to join in any religious opinion or ce-
‘ remony; and this indirect manner of subjecting
‘ him to it, by tacking to an office, in itself meerly
‘ temporal, a most solemn approbation of all the re-
‘ ligious doctrines and ceremonies of the established
‘ church.

‘ Again, Sir, if the post or office to which a
‘ man is named or intitled, be one of those to which
‘ a yearly salary or revenue is annexed, from the
‘ day of his nomination he has as good a right to
‘ receive the profits of that office, as any man has,
‘ or can have to his ancestor’s estate, they being
‘ both founded chiefly upon the law of the land;
‘ nay, it often happens that the person named to
‘ any post or office, has by long and faithful servi-
‘ ces fully deserved that nomination; and this I
‘ take to be a more favourable and meritorious title,
‘ than

‘ than the title any man can have to the estate of
‘ his ancestor or next relation. Suppose we should
‘ have a new foreign war of ten years duration, as
‘ we had in the late Queen’s reign; suppose a gen-
‘ tleman of the dissenting persuasion should, in the
‘ beginning of that war go abroad a cadet in one of
‘ our marching regiments, and in consideration of
‘ much blood lost, and many brave services per-
‘ formed in the cause of his country, should be ad-
‘ vanced and made at last colonel of the regiment,
‘ would not such a man be fully intitled to the pro-
‘ fits of his commission, during the time his Majesty
‘ should think fit to continue him in command?
‘ Would it not be downright persecution to turn
‘ him out of his commission, and reduce him to a
‘ starving condition, meerly for the sake of a scru-
‘ ple of conscience? Yet the case would be so, if
‘ this law should be then in force: Upon the first
‘ return of the regiment to *England*, he would be
‘ obliged, within four months, to give up his re-
‘ giment, or receive the sacrament of the Lord’s
‘ supper, according to the usage of our established
‘ church, which his conscience would not permit him
‘ to do, if he should happen to be a rigid and sin-
‘ cere Dissenter. This, Sir, I should look on as a
‘ higher degree of persecution, that it would be to
‘ turn a man out of an estate which he had really
‘ purchased with his money, because I shall always
‘ look upon merit or faithful services to be a more
‘ valuable consideration, than a full price paid in
‘ ready money; and therefore I must look upon it
‘ as a much higher degree of persecution, than it
‘ would be to render a man, on account of any re-
‘ ligious opinion, incapable of holding a land estate,
‘ or of succeeding to any estate as next heir, or next
‘ of kin.

‘ From what I have said, Sir, I hope it will ap-
‘ pear that a very high degree of persecution lurks
‘ under

‘ under the incapacitating clauses I have mentioned,
‘ and therefore, in my motion for the repeal of them,
‘ I hope I shall have the concurrence of all those who
‘ are real enemies to that anti-christian practice; but
‘ when I consider the regard and the reverence that
‘ is due to the sacrament of the Lord’s Supper; when
‘ I consider it as a holy institution established by
‘ Christ himself, in remembrance of his death and
‘ passion; an institution that has been ever since ce-
‘ lebrated by Christians with the utmost devotion; a
‘ sacred mystery which none ought to approach,
‘ without having first diligently tried and examined
‘ themselves, and a mystery to which all are to be
‘ invited, but none to be compelled; I am surprised
‘ that it should ever have been turned to such a pro-
‘ phane use as that of qualifying a man for being an
‘ adjutant of a regiment, or the bailiff of a little bo-
‘ rough. This, Sir, is perverting it to an use for
‘ which I am sure it was never intended, and this
‘ perversion has already produced, and will always
‘ produce, many and great abominations. It is well
‘ known how many have become unworthy parta-
‘ kers of the holy communion for the sake only of
‘ intitling themselves to some lucrative post or em-
‘ ployment; it is well known what terrible misbeha-
‘ viours and indecencies some have been guilty of up-
‘ on such occasions, and what a scandal has often
‘ been thereby given to all those who are truly de-
‘ vout or religious. This is so generally known that
‘ it is now the common practice in all the churches
‘ of *England*, for the priest or curate to desire the
‘ legal communicants if any there be, I mean those
‘ who come there in obedience to that statute, to se-
‘ parate and divide themselves from those who come
‘ there purely for the sake of devotion; and, in-
‘ deed, it were to be wished, that none of the for-
‘ mer should ever be allowed to communicate in
‘ the presence of, much less at the same table with
‘ any of the latter; for the former are often so
‘ well

‘ well and so generally known to be unworthy par-
‘ takers, that their being admitted upon any pre-
‘ tence whatsoever, gives great offence to the truly
‘ religious, and tends to subvert the morals of the
‘ vulgar, by lessening that esteem and reverence
‘ which they ought to have for the established reli-
‘ gion of their country, and which wise lawgivers
‘ and magistrates will always cultivate with all pos-
‘ sible care.

‘ To preserve the morals of the vulgar, and for
‘ that end to preserve in them a true sense of religion,
‘ and a due regard to that which is the established
‘ religion of their country, will, I say, Sir, be al-
‘ ways the chief aim of wise lawgivers and diligent
‘ magistrates; but by long and general experience
‘ we know, that this is not to be done by penal
‘ laws or the most cruel persecutions. On the con-
‘ trary, such guarantees for the established religion
‘ of any country, have always produced pride, ig-
‘ norance, luxury, and oppression, among those of
‘ the established church, and invincible, nay, often
‘ victorious enthusiasm, among those of the contrary
‘ religion. Even in this kingdom, we know, that
‘ penal laws and persecution raised so high the tor-
‘ rent of enthusiasm among us, that our established
‘ church was at last quite overwhelmed by the dis-
‘ senting interest; and happy was it for our church
‘ that those enthusiasts destroyed our constitution, as
‘ well as our established religion; for if they had
‘ preserved the former, I am afraid the latter had
‘ never been restored. Yea, farther, we know, that
‘ since the repeal of most of our persecuting laws,
‘ the dissenting interest has daily decreased; and I
‘ am convinced those remains of it that are now
‘ to be seen among us, are chiefly owing to what I
‘ may now call the remains of those persecuting
‘ laws, which are the act now under our considera-
‘ tion, and one other act of much the same nature;
‘ there-

‘ therefore as a friend to our established church,
‘ I am for getting rid of those remains of perse-
‘ cution as well as those other persecuting laws
‘ which luckily for the church, as well as for the
‘ nation in general, we got rid of by the toleration
‘ act passed in the reign of the late glorious King
‘ *William*.

‘ With regard to the peace and unity of our peo-
‘ ple, I must say, Sir, it is matter of great surprise
‘ to me, how the legislature of any country could be
‘ prevailed on to annex temporal rewards or punish-
‘ ments to speculative opinions in religion. I can
‘ easily conceive how doctors might differ in specu-
‘ lative points of divinity, as well as in speculative
‘ points of law, physic, or philosophy; and I know
‘ with what vehemence a learned doctor in any of
‘ those sciences maintains his own opinion, and with
‘ what envy, malice, and rage, he pursues his ad-
‘ versaries; but I cannot easily conceive what reasons
‘ the law-givers of any country could have, to adopt
‘ and establish speculative opinions of any particular
‘ doctor of divinity, while at the same time they
‘ shewed a very great indifference with regard to
‘ the speculative opinions of the doctors in all other
‘ branches of literature: The cause of this different
‘ behaviour in our ancient law-givers, I say, I can-
‘ not well comprehend; but whatever may have
‘ been the cause, if they thereby intended to establish
‘ an uniformity of opinion with respect to religious
‘ matters, experience has shewn that they have been
‘ most egregiously mistaken; for the annexing of
‘ temporal rewards and punishments to speculative
‘ opinions, has been so far from reconciling men’s
‘ minds, and making them agree in any one opi-
‘ nion, that it has rendered those of different opi-
‘ nions in religion, not only implacable, but most
‘ cruel and barbarous enemies to one another; an
‘ effect which has never been produced by difference

of opinion in any other science. In law, in physics, in philosophy, there are, and always have been, doctors of different opinions; and among them too there have always been, I believe, some who would have gladly confuted their adversaries by fire and faggot, especially when they found themselves overcome by fair reasoning; but as the law of no country has as yet thought fit to interpose in those disputes, we find the followers of these doctors have generally argued the matter very coolly, and when the dispute was over, have parted as good friends as they met. This has hitherto been the case in all sciences except divinity; but if we should make a law for punishing those who did not agree with the *Newtonian* system of philosophy, or for rendering all such incapable to hold any post or office in our government, I am persuaded we should have, in a few years, great numbers of our people, who would be ready to sacrifice life and fortune in defence of the *Aristotelian* or the *Cartesian* system of philosophy: Nay, if any such law were made against all those who did not believe that the three angles of every triangle, are equal to two right angles, I make no doubt but that this plain demonstration would be most violently opposed by great numbers of men in the kingdom; for when the passions of men are stirred up by temporal rewards and punishments, the most reasonable opinions are rejected with indignation, the most ridiculous are embraced with a frantic sort of zeal, an enthusiastical sort of adoration. Therefore, Sir, if we have a mind to establish peace and concord among our people, if we have a mind that the soft voice of reason and true religion should be generally heard, we must allow men to judge freely in matters of religion, and to embrace that opinion they think right, without any hopes of temporal rewards, and without any fears of temporal punishments.

‘ As to our trade, Sir, the advantages we have
 ‘ reaped in that respect by the toleration act are so
 ‘ apparent, that I shall not take up your time with
 ‘ enlarging upon that subject; but in order to
 ‘ retain those advantages, and to improve them as
 ‘ much as possible, I shall beg leave to move, that
 ‘ leave be given to bring in a bill to repeal, &c. (as
 ‘ above.)

The answer was to this effect, *viz.*

‘ Sir, As I have in all my conduct hitherto ap- Answer
 ‘ peared to be an utter enemy to all manner of per-
 ‘ secution, I hope my disagreeing with this motion
 ‘ will not be looked on as any sign of my having
 ‘ changed my opinion, or of my having any in-
 ‘ tention to alter my conduct for the future: So far
 ‘ otherwise, Sir, I have still, and I hope shall always
 ‘ have, as tender a regard for the Dissenters of all
 ‘ sects and denominations, as any man can have
 ‘ who is a true member of the church established by
 ‘ law. As a sincere and unfeigned member of the
 ‘ church of *England*, I must, and I do wish that all
 ‘ the Dissenters in the kingdom could be gained over,
 ‘ that all his Majesty’s subjects could be prevailed on
 ‘ to become members of that church, of which his
 ‘ Majesty is upon this earth the supreme and only
 ‘ head; but though I wish for this happy event, with
 ‘ as much ardor as I can wish for any thing, yet I
 ‘ shall never be for attempting the accomplishment of
 ‘ that wish, by any means or methods that have the
 ‘ least tendency towards persecution, or towards do-
 ‘ ing real injury to any man, whose tender conscience
 ‘ will not allow him to embrace that which is the e-
 ‘ stablished religion of his country: For all such I
 ‘ shall continue to have a compassion and a real con-
 ‘ cern; because I think it a great misfortune for a
 ‘ man to be of any opinion which is singular, or
 ‘ which is different from that of the generality

‘ of his countrymen; and since I look upon this
‘ difference of opinion as a man’s misfortune, and
‘ not his crime, I shall never be for subjecting him,
‘ upon that account, to any punishment or perse-
‘ cution.

‘ But, Sir, the words persecution and punishment
‘ have, in my opinion, been very much mistaken
‘ by the honourable gentleman who made you this
‘ motion, and by all those who have spoke upon the
‘ same side of the question; for according to the
‘ meaning they have put upon these words, there
‘ could be no such thing as an established church, or
‘ established religion in the world, but what must
‘ be deemed guilty of persecuting and punishing all
‘ those who differ from it; and yet those gentlemen
‘ will, I believe, grant, that in every society there
‘ ought to be an established religion, or a certain
‘ form of church government and public worship e-
‘ stablished by the laws of that society; therefore we
‘ must find out a meaning for those words, different
‘ from that which they have put upon them; and
‘ the true meaning, may, I think, be easily found out
‘ from the practice of this and some of our neigh-
‘ bouring nations.

‘ As there is in every society a certain constitution
‘ or form of government established, I hope it will
‘ be granted, that it is the duty of every man of the
‘ society to support and preserve that constitution or
‘ form of government, as long as he thinks it the best
‘ that can be established; and on the other hand, if
‘ there be any man, or any set of men, who are con-
‘ vinced that a different form of government would
‘ render the society much more happy and power-
‘ ful, I believe it will likewise be granted, that it
‘ is the duty of all such men to endeavour, in a peace-
‘ able way at least, to bring about an alteration;
‘ these two duties therefore being altogether incon-
‘ sistent, nay, even destructive of one another, it is
‘ absolutely impossible for the one set of men to do
‘ their

‘ their duty, without laying the other set under some
‘ hardships: When those hardships are no greater
‘ than what are absolutely necessary for the end in-
‘ tended, they are just and reasonable, and such as
‘ those who are subjected to them, ought not to com-
‘ plain of; but when they are greater than what are
‘ necessary, they then begin to take and to deserve
‘ the name of oppression, and according to the de-
‘ grees of this excess, the degrees of oppression are
‘ always to be computed: In this kingdom, we
‘ know, there is a set of men who think it their duty
‘ to endeavour to bring about an alteration of our
‘ present happy establishment, I mean our nonjurors;
‘ who, for that very reason, are excluded from all
‘ posts and places in our government, which is cer-
‘ tainly a hardship upon them; but I am sure it can-
‘ not be called an oppression; nor can this exclusion,
‘ with respect to them, be called a punishment.

‘ Now, Sir, with respect to the established reli-
‘ gion of any society, it is the very same; for as
‘ there must be in every society an established reli-
‘ gion, it is the duty of every man of the society to
‘ support and preserve the established religion, as
‘ long as he thinks it the best that can be established;
‘ and if there be in the society any man, or any num-
‘ ber of men, who think that the established reli-
‘ gion is idolatrous, or inconsistent with christianity,
‘ it is certainly their duty to endeavour, in a peace-
‘ able way at least, to bring about an amendment
‘ or alteration; so that if the former set of men do
‘ their duty, they must take care to prevent its being
‘ in the power of the latter to do theirs; the neces-
‘ sary consequence of which is, that the latter must
‘ be laid under some few hardships: When those
‘ hardships are no greater than what are absolutely
‘ necessary for preventing its being in their power to
‘ bring about the alteration they are in duty bound
‘ to attempt, the hardships, whatever they may be,

are just and reasonable ; but when they exceed what are absolutely necessary, they then begin to be called persecution, and till then they ought not to be called so.

Having thus, Sir, established what I take to be the proper and the only meaning of the word persecution, I shall take notice, that if there be a set of men in this kingdom, who think the doctrines of the established church inconsistent with christianity, or the ceremonies of our public worship idolatrous, it is their duty as christians to attempt to bring about an alteration in our established religion, and they certainly will attempt it, as soon as it is in their power ; nay, with all deference to the honourable gentlemen who have spoke upon the other side of the question, for all of whom I have the greatest esteem, I must look upon this very motion as a step to, or rather a beginning of that attempt ; but as I am a member of the church of *England*, and think it the best religion that can be established, I think it my duty to prevent its being ever in the power of such men to succeed in any such attempt ; and for this purpose, I think it absolutely necessary to exclude them from any share in the executive part of our government, at least ; because, if the executive part should once come to be generally in their hands, they would very probably get the legislative part likewise, from which time it would be in vain to think of preventing, in a peaceable manner, their doing whatever they had a mind ; and it must be presumed they would have a mind to do what they thought themselves in duty bound to do. To exclude a man from a profitable post or employment, I shall admit to be a hardship upon the man so excluded ; but as it is absolutely necessary for the preservation of our established church, to exclude those, who think it their duty to destroy it, from any share in the executive part of our government, therefore this exclusion

can

‘ can no more be called persecution, than it can
‘ be called oppression, to exclude Nonjurors from
‘ any share of our government, executive or le-
‘ gislative, nor can such exclusion be deemed a
‘ punishment in the one case, any more than in
‘ the other.

‘ In the supposed case of a brave Dissenter’s being
‘ advanced to the command of a regiment, I shall
‘ grant, that it would be a great hardship upon
‘ him to be turned out of his command, and to be
‘ exposed to a starving condition, upon his return
‘ to his native country ; but the same case may be
‘ supposed with respect to a *Roman Catholic* gen-
‘ tleman ; yet there would be no persecution in
‘ either case ; because the excluding of all such men
‘ from any command in our army, especially here
‘ at home, is, I think, absolutely necessary for the
‘ preservation of our constitution in the happy state
‘ it is in at present : Nor could such an exclusion
‘ be called a punishment upon the man so excluded,
‘ no more than it can be called a punishment upon
‘ a man of five foot and a half, to be excluded
‘ from being a soldier in the guards ; for neither
‘ of these exclusions proceeds from any crime or
‘ fault in the man ; it being as impossible for a
‘ man to alter his opinion, when he has a mind, as
‘ it is to add two or three inches to his stature, when
‘ he has occasion for it ; but as the latter becomes
‘ necessary, for the sake of preserving the beauty
‘ and symmetry of a regiment, so the former becomes
‘ necessary, for the sake of preserving the beauty
‘ and symmetry of a society.

‘ The argument raised from the supposed abuse
‘ of the blessed sacrament of the Lord’s Supper, is
‘ founded upon a fact which I cannot admit ; for
‘ as there is nothing in this law that can compel the
‘ admission of an unworthy person, as the ministers
‘ of our church may refuse to admit any person to

‘ the sacrament who does not devoutly and humbly
 ‘ desire it, or for any other lawful cause ; * I must
 ‘ presume no unworthy persons are admitted ; or
 ‘ at least if there be, it does not proceed from any
 ‘ fault in this or any other of our statutes, but from
 ‘ the criminal and irreligious neglect of the minister
 ‘ who admits them.

‘ As to the unity and peace of our people, I am
 ‘ persuaded, Sir, the repeal of this law, and another
 ‘ which I believe is likewise intended, would raise
 ‘ most terrible disturbances and confusions ; for
 ‘ with respect to all posts and employments that go
 ‘ by election, we should have all the Dissenters com-
 ‘ bining closely together, to bring in their friends,
 ‘ which would of course breed many riots and tu-
 ‘ mults. And as to our trade, it depends so much
 ‘ upon the peace and tranquillity of the nation, that
 ‘ if we have a mind to preserve it, we ought not to
 ‘ make any new regulation, or repeal any old, if by
 ‘ so doing we run the risque of raising heart-burn-
 ‘ ings and jealousies among our people.’

To this it was replied in substance as follows, *viz.*

Reply.

‘ Sir, I shall take up but a very little of your time
 ‘ in replying to what has been said ; for in my opi-
 ‘ nion, the arguments for the motion have been not
 ‘ only confirmed but enforced by what has been said
 ‘ in answer to them.

‘ If the hardships imposed upon the Dissenters
 ‘ by the law under our consideration, are greater
 ‘ than what are absolutely necessary for preventing
 ‘ its being in their power to destroy the established
 ‘ church, from what has been said of the other side
 ‘ of the question, it must be granted, that this law
 ‘ is a persecuting law : Now, Sir, to determine this
 ‘ question in the affirmative, we need have recourse

* See Statute 1 Edward VI. chap. 1.

‘ to the practice of no other nation but *Scotland* :
‘ With regard to that nation, we know that the
‘ Presbyterian religion, which is here one of our
‘ dissenting religions, is there the established church,
‘ and what is here our established church, is there a
‘ dissenting religion ; yet the established church in
‘ *Scotland* have never thought it necessary, nor does
‘ it appear to be necessary, for their preservation,
‘ to exclude their Dissenters from all posts and em-
‘ ployments in the executive part of their govern-
‘ ment, nor have they any law for such a purpose ;
‘ but, on the contrary, some of their judges and
‘ magistrates, and many of those in posts and em-
‘ ployments in that kingdom, go openly, and in the
‘ most solemn manner, to the episcopal or church
‘ of *England* meeting-houses ; and tho’ this practice
‘ or indulgence has been continued for many years,
‘ and continues to this day, yet the established
‘ church in that country is so far from being in any
‘ danger of being overturned by what is there the
‘ dissenting interest, that the former is daily gain-
‘ ing ground upon the latter ; which evidently
‘ shews the great weight and effect of a legal esta-
‘ blishment, with respect to religion, when the
‘ minds of men are not irritated by any unnecessary
‘ hardships put upon them. I could likewise in-
‘ stance *Holland*, and several other protestant coun-
‘ tries, to shew that rendering Dissenters incapable
‘ of serving the crown in any post of honour, trust,
‘ or profit, is a hardship put upon them, which is
‘ so far from being absolutely necessary, that it is
‘ not at all necessary for preserving the established
‘ religion of any country ; and therefore this hard-
‘ ship must, in the strictest sense, be called persecu-
‘ tion, even according to the meaning put upon it
‘ by the honourable gentlemen who have spoke
‘ upon the other side of the question.

‘ With

‘ With respect to Nonjurors and *Roman* Catholics,
‘ the hardships put upon them are not for the sake
‘ of a scruple of conscience, in any matter of a reli-
‘ gious concern, but because they are enemies to
‘ the state, and to the present happy establishment;
‘ but I am surprized to hear it said, that the render-
‘ ing of them, or the Dissenters, incapable of hold-
‘ ing any post of honour, trust or profit under the
‘ crown, is no punishment; when I consider, that
‘ That very punishment has often been inflicted by
‘ Parliament, as one of the greatest punishments
‘ they could inflict upon crimes of a very high na-
‘ ture: Surely this legal incapacity must be looked
‘ on as a punishment upon both, with this difference
‘ tho’, that upon those who declare themselves Non-
‘ jurors or *Roman* Catholics, it is with great justice
‘ inflicted, but upon Dissenters, it is inflicted with-
‘ out any cause or occasion, no party among them
‘ having ever yet been, nor, I believe, ever will be
‘ suspected, of being enemies to our present esta-
‘ blishment, unless the rejecting of this motion
‘ should make them so. I am sure every gentleman
‘ that hears me must grant, that there is some differ-
‘ ence between a capacity of being a soldier in the
‘ guards, and a capacity of holding any post or pre-
‘ ferment under the crown: The guards are the
‘ King’s own servants, and every man may chuse
‘ what sort of servants he has a mind; therefore no
‘ man has a title to any capacity of being a soldier
‘ in the guards; but every subject has a title to a
‘ capacity at least of sharing in the honours and
‘ preferments of his country, and that capacity
‘ ought not to be taken from him, but by way of
‘ punishment for some very high crime or misde-
‘ meanor; for it is a punishment so dishonourable
‘ and severe, that we never find it inflicted by our
‘ laws upon crimes of an ordinary nature.

‘ I shall grant, Sir, that a minister of the esta-
‘ blished church, is not by any express words in this
‘ act,

‘ act, ordered or compelled to administer the sacra-
‘ ment to an unworthy person, who desires it only
‘ for the sake of enabling himself to hold a benefi-
‘ cial employment ; but if a minister of the church
‘ of *England* should refuse to administer the sacra-
‘ ment to any person, upon such occasion, and that
‘ person should by means of such refusal lose his
‘ post, or only a year’s salary, he might bring his
‘ action at common law, upon the statute of *Ed-*
‘ *ward* the first, against such minister, and would
‘ recover great damages, if the court of common
‘ law should not approve of the minister’s reasons,
‘ for refusing to administer the sacrament to the
‘ plaintiff: Whereas, before the receiving of the
‘ sacrament was made a qualification for a civil em-
‘ ployment, no such plaintiff could have recovered
‘ any considerable damages, nay, I doubt if he could
‘ have recovered any damages at all ; for he could
‘ not probably have proved any temporal damage
‘ by his not receiving the sacrament when he desired
‘ it, and I do not see how a jury could pretend to
‘ put a value upon the spiritual damage, he might
‘ pretend to have received. Those laws therefore,
‘ which have made the receiving the sacrament a
‘ qualification for a civil employment, have subjected
‘ all the clergymen of the church of *England* to a
‘ very great difficulty ; because they are by those
‘ laws, and by those only, subjected to the danger of
‘ having such damages given against them, as may
‘ ruin them and their families for ever, in case they
‘ refuse to administer the sacrament to a person
‘ whom they know to be a most profligate and im-
‘ penitent sinner ; for this a minister of our church
‘ may be fully convinced of, and yet it may be
‘ impossible for him to make the same appear to a
‘ jury.

‘ To pretend, Sir, that if those incapacitating
‘ laws were repealed, the Dissenters would combine
‘ closely together in all elections, and that these
‘ com-

‘ combinations would occasion terrible disturbances,
‘ is contradicted by experience in *England* as well
‘ as *Scotland* ; for tho’ many of the Dissenters in
‘ *England* do communicate sometimes with the esta-
‘ blished church, and in consequence thereof become
‘ candidates, from time to time, for almost every
‘ elective civil post in the kingdom ; and tho’ the
‘ Dissenters do generally join pretty unanimously
‘ upon such occasions, I believe more unanimously
‘ than they would do, if these laws were repealed,
‘ yet we find it never produces any disturbances :
‘ And in *Scotland*, where the Dissenters from their
‘ established church are under no incapacitating
‘ laws, we find that the disputes about elections ne-
‘ ver produce any disturbances between the two reli-
‘ gious parties in that kingdom ; altho’ it must be
‘ granted, that the people of that country are as
‘ violent in all their desires, as bold and enterprising
‘ in their designs, and as turbulent under disappoint-
‘ ments, as the people in any country, I believe,
‘ upon the face of the earth. We must therefore
‘ from experience conclude, that the repeal of those
‘ persecuting laws, which to our misfortune, are still
‘ in force in this kingdom, would confirm rather
‘ than disturb our present tranquillity ; and it would
‘ certainly increase our trade, because it is not to be
‘ questioned, but that a great many more rich fo-
‘ reign merchants would come over and settle among
‘ us, if they found they could enjoy all the privi-
‘ leges of *Englishmen*, without changing their reli-
‘ gion : Whereas, while those laws remain unre-
‘ pealed, a few foreign tradesmen and mechanics,
‘ who aspire to no honours or preferments, may per-
‘ haps come over ; but rich and opulent foreign mer-
‘ chants will neither come, nor stay to settle their
‘ families in this kingdom, when they consider, that
‘ neither they, nor their posterity, can aspire to any
‘ honour or preferment, unless they make a sacrifice
‘ of the religion of their ancestors.’

At last the question was put, which upon a division, was carried in the negative, by 251 to 123. Division.

The principal speakers in this debate were, for Speakers. the question, *Walter Plummer Esq*; *Sir Wilfrid Lawson*, the Lord *Polworth*, Mr. Alderman *Heathcote*, *Samuel Holden Esq*; and against it were Lord *Noel Somerset*, Lord Viscount *Tyrconnel*, *Joseph Danvers Esq*; *William Shippen Esq*; and Mr. Chancellor of the *Exchequer*.

ON the 26th, the house of Commons resolved Supplies granted. itself into a Committee of the whole house, to consider farther of the supply granted to his Majesty, and came to the following resolutions, which were reported and agreed to on the 29th, *viz.*

To grant to his Majesty,

1. The sum of 22,944 *l.* 14 *s.* for making good the deficiency of the general fund.

2. The sum of 24,570 *l.* 2 *s.* 7 *d.* to make good to the sinking fund, the like sum paid out of the same, for interest on the million lent on credit of the salt duties, for the supplies of the year 1734, pursuant to a clause in an act of Parliament passed in the 7th year of his Majesty's reign.

3. The sum of 10,000 *l.* towards the maintenance of the *British* forts and settlements, belonging to the royal *African* company of *England* on the coast of *Africa*.

4. The sum of 10,000 *l.* towards settling and securing the colony of *Georgia* in *America*.

5. The sum of 11,485 *l.* 4 *s.* 5 *d.* to make satisfaction to *Humphrey Bell* (the surviving assignee of the

the estate and effects of *William Ellins* and *Edmond Farrington*, against whom a commission of Bankruptcy issued) suitor of the court of *Chancery* in 1726, for so much of his debt and demand from one of the masters of the said court, as then remained unsatisfied.

6. The sum of 30,167*l.* towards the buildings, rebuildings, and repairs of his Majesty's ships for the year 1736.

With these resolutions, the Committee of supply was concluded for that session ; and on the 30th of *April*, the house resolved itself into a Committee of the whole house, to consider farther of ways and means for raising the supply granted to his Majesty, when they came to the following resolution, which was on the 3d of *May* reported and agreed to by the house, and a bill ordered to be brought in upon the same, *viz.*

Stamp duties
continued.

That the several additional stamp duties granted by an act passed in the 12th year of his late Majesty's reign, intituled, *An Act for the relief of the suitors of the high court of Chancery*, should be continued from the 2d day of *August*, 1742, to the 2d day of *August*, 1746, in order to raise the sum of 11,485*l.* 4*s.* 5*d.* to make satisfaction to *Humphrey Bell* (the surviving assignee of the estate and effects of *William Ellins* and *Edmond Farrington*, against whom a commission of bankruptcy was issued) suitor in the court of *Chancery* in 1726, for so much of his debt and demand in that year, due from *John Bennet Esq;* one of the masters of the said court, and then remaining unsatisfied.

With this resolution the committee of ways and means concluded for that session ; and the bill ordered in upon the last resolution was accordingly brought in, and passed into a law.

ON

ON the 11th of *May*, *Henry Arthur Herbert Esq*; moved the house for leave to bring in a bill, to explain and amend so much of an act made in the second year of his present Majesty's reign, intitled, *An Act for the more effectual preventing bribery and corruption in the election of members to serve in Parliament*, as relates to the commencing and carrying on of prosecutions grounded upon the said act; which was accordingly granted, and the said Mr. *Henry Archer Herbert*, Mr. *Richard Lloyd*, Mr. *Knight*, and Mr. *More*, were ordered to prepare and bring in the same: Accordingly a bill for this purpose was presented to the house the same day, and read a first time; next day it was read a second time; and was passed through the committee, and reported and agreed to by the house the day after; and on the 14th was read a third time, and passed.

Bill for explaining the bribery act.

The reason assigned for bringing in and passing this bill, was, ' That by a clause in the act against bribery and corruption, it is enacted, That no person shall be made liable to any incapacity or penalty by the said act imposed, unless prosecution be commenced within two years after the crime committed, and in case of prosecution within that time, unless the same be carried on without wilful delay; which limitation, it was said, was very necessary, in order to quiet people's minds, and prevent false or vexatious prosecutions; but that the same was not sufficiently full and explicit, because the suing out of an original was a commencement of a prosecution, which might be done without letting the party prosecuted know that any such prosecution was commenced; and the limitation being saved, by the suing out an original in this private manner, prosecutions upon that act might hang up privately against men for many years after the supposed offence, which would be of the most

Reasons for bringing in the bill.

‘ most dangerous consequence, and therefore it was
 ‘ necessary to bring in a short bill for explaining
 ‘ and amending that clause, so as to make it neces-
 ‘ sary to give the party prosecuted notice of that
 ‘ prosecution within the two years.’

Objection
 made to its
 having a re-
 trospect.

As this amendment was generally thought to be
 necessary, the bill was not at first objected to ; but
 when the bill came to be examined in the commit-
 tee, Sir *John Hynd Cotton* and others took notice,
 ‘ That upon a serious attention to that bill, they
 ‘ were not at all surprized to see it brought in so
 ‘ late in the session, and passed in such a hurry ; for
 ‘ as it was drawn up with a retrospect, it was really
 ‘ an act of indemnity for almost all the bribery and
 ‘ corruption men might have been guilty of at the
 ‘ last general elections for members of Parliament,
 ‘ and might very probably be an injury to several
 ‘ private men, who had already done all that was
 ‘ made necessary by that act, for intitling themselves
 ‘ to carry on prosecutions against offenders ; for as
 ‘ the two years since the former election were then
 ‘ just expiring, if a gentleman had just sued out forty
 ‘ originals against forty different offenders, and had
 ‘ thereby intitled himself to proceed against them
 ‘ with his convenience, he would be intirely disap-
 ‘ pointed, and lose the whole expence he had been
 ‘ at ; because the two years would very probably be
 ‘ expired before he could hear of this act, and then
 ‘ it would, by this new act, be past the time for
 ‘ serving even those very originals, which he had
 ‘ regularly sued out in the terms of the former act ;
 ‘ therefore they hoped the committee would amend
 ‘ the bill, so as to prevent its having a retrospect,
 ‘ or doing any injury to any gentleman who had
 ‘ been guilty of no wilful delay or omission, as the
 ‘ law then stood ; for it was very probable, that
 ‘ great numbers of originals had been sued out, but
 ‘ not served or prosecuted, because the prosecutors
 ‘ would, in common prudence, wait till a few cases
 ‘ of

‘ of the same nature had been determined, in order
 ‘ that they might from thence learn how to pro-
 ‘ ceed.

To this it was answered in general, ‘ That what-
 ‘ ever lawyers might mean by a prosecution com-
 ‘ menced, the meaning of the legislature when that
 ‘ law passed, certainly was, That no prosecution
 ‘ should be understood to be commenced, unless the
 ‘ person prosecuted had notice of it within the time
 ‘ limited, by an arrest, summons, or some other
 ‘ legal method; and as this was the meaning of the
 ‘ Legislature, they believed most gentlemen had ta-
 ‘ ken it in that sense, for they had never heard of
 ‘ any prosecutions commenced in the other manner,
 ‘ nor could any gentleman in that house give an in-
 ‘ stance where a prosecutor had sued out a number
 ‘ of originals, without summoning or arresting the
 ‘ persons against whom they were sued out; from
 ‘ whence it was to be presumed, that if there were
 ‘ any such instances, they were so rare as not to de-
 ‘ serve the notice of that house.’

Upon this, the bill was agreed to without any
 amendment, and passed accordingly.

On *Thursday* the 20th of *May*, his Majesty came
 to the house of Peers, and gave the royal assent to
 several public and private bills.

After which his Majesty made the following speech
 to both houses of Parliament, *viz.*

‘ *My Lords and Gentlemen,*

‘ **T**H E dispatch you have given to the public
 ‘ business, and the advanced season of the
 ‘ year, make it proper to put an end to this session
 ‘ of Parliament.

The King's
 speech at the
 end of the
 session.

‘ I acquainted you, at your first meeting, that
 ‘ preliminary articles had been concluded between
 ‘ the Emperor and the most Christian King; since
 ‘ which time a farther convention, concerning the

‘ execution of them, hath been made, and commu-
‘ nicated to me by both those courts ; and negotia-
‘ tions are carrying on, by the several powers enga-
‘ ged in the late war, in order to settle the general
‘ pacification.

‘ *Gentlemen of the house of Commons,*

‘ I return you my thanks for the provisions you
‘ have made for the service of the current year.
‘ You can never better recommend yourselves to my
‘ esteem, and to the good opinion of those you re-
‘ present, than by raising the supplies necessary for
‘ the support of my government, and for the service
‘ of the public, in a manner the most effectual, and
‘ the least burdensome to my people.

‘ *My Lords and Gentlemen,*

‘ It is a great concern to me to see such seeds of
‘ diffension sown among my good people, as, if
‘ not timely prevented, may prove very prejudicial
‘ to the peace and quiet of my kingdoms. It is my
‘ desire, and shall be my care, to preserve the pre-
‘ sent constitution in church and state, as by law
‘ established, perfect and intire, and not to counten-
‘ ance any attempts to the prejudice of either. Good
‘ harmony and mutual affection, among all the Pro-
‘ testants of this nation, have been the great securi-
‘ ty of the present happy establishment, from the
‘ revolution to this time. By this united strength,
‘ they will be able to resist the secret and open at-
‘ tempts of our common enemies ; but, divided,
‘ they may become a prey to them. My protection
‘ shall be impartially dispensed to all my subjects, in
‘ the full enjoyment of their religious and civil rights.
‘ Let it be your care, by your conduct in your seve-
‘ ral stations, to make my endeavours for your com-
‘ mon happiness effectual.

‘ *My*

My Lords and Gentlemen,

— ‘ It being necessary for me to visit my dominions
 ‘ in *Germany* again this year, I have resolved to ap-
 ‘ point the Queen regent here during my absence.
 ‘ The experience you have already had, of her just
 ‘ and prudent administration, will, I doubt not, en-
 ‘ gage you all to make the weight of the public af-
 ‘ fairs as easy to her, as her wise conduct will render
 ‘ the government agreeable to you : And this I re-
 ‘ commend to you in a particular manner.’

And then the Lord Chancellor, by his Majesty’s
 command, prorogued the Parliament to *Thursday* the
 29th of *July* then next.

An Exact LIST of the Lords Spiritual and Temporal; as also, of the House of Commons, of the Second Parliament of King GEORGE II. summoned to meet at Westminster, on the 15th of January, 1735, being the Fourth Septennial Parliament.

N. B. Those marked c under age; d don't sit in the house; those marked thus † are the Scotch Peers; and those marked thus †* sat in the last Parliament.

DUKES 30.

HIS Royal Highness, FREDERICK Prince of Wales, Duke of Cornwall
 His R. Highness, WILLIAM c D. of Cumberland
 Edward Howard d Norfolk
 Charles Seymour Somerset
 William Fitzroy Cleveland & Southampt.
 Charles Lenos Richmond
 Charles Fitzroy Grafton
 Henry Somerset Beaufort
 Charles Beauclair St. Albans

These

These following were created Dukes since the Revolution.

Charles Powlet	Bolton
Thomas Osborne c	Leeds
John Ruffel	Bedford
William Cavendish	Devonshire
Charles Spencer	Marlborough
John Manners	Rutland
John Montagu	Montagu
† Francis Scot	Buccleugh
†* James Murray	Athol
Charles Douglas d	Dover and Queensbury
Henry de Grey	Kent
James Hamilton d	Hamilton and Brandon
Peregrine Bertie	Ancafter and Kesteven
Evelyn Pierpoint	Kingston
Thomas Holles Pelham	Newcastle
William Bentinck	Portland
John Campbell	Greenwich
William Montagu	Manchester
James Bridges	Chandois
Lionel Sackville	Dorset
Scroop Egerton	Bridgewater

M A R Q U I S S E S 2.

William Herbert d	Powis
†* William Ker	Lothian

E A R L S 85.

George Talbot d	Shrewsbury
Edward Stanley	Derby
Theophilus Hastings	Huntington
Henry Herbert	Pembroke & Montgom.
Henry Clinton c	Lincoln
Henry Howard	Suffolk

James Cecil <i>c</i>	Salisbury
Brownlow Cecil	Exeter
Jocelin Sidney	Leicester
James Compton	Northampton
Edward Rich	Warwick and Holland
William Fielding	Denbigh
John Fane	Westmoreland
Henry Bowes Howard	Berkshire
John Savage <i>d</i>	Rivers
Charles Mordaunt	Peterborough and Mon- mouth
Harry Grey	Stamford
Daniel Finch	Winc. and Nottingham
Philip Dor. Stanhope	Chesterfield
Sackville Tufton	Thanet
Nicholas Leake	Scarsdale
John Mountagu	Sandwich
Henry Hyde	Clarendon and Rochester
William Capel	Essex
George Brudenel	Cardigan
Richard Annesley	Anglesey
Charles Howard	Carlisle
Thomas Bruce	Aylesbury
Richard Boyle	Burlington
Ant. Ashley Cooper	Shaftsbury
George Henry Lee	Litchfield
Henry Roberts	Radnor
Augustus Berkeley	Berkeley
Mont. Venabl. Bertie	Abingdon
Baptist Noel	Gainsborough
Robert Darcy <i>c</i>	Holdernefs
Other Lewis Windfor- Hickman <i>c</i>	Plymouth
W ^m . Staff. Howard <i>d</i>	Stafford

These

These created since the Revolution.

Richard Lumley	Scarborough
George Booth	Warrington
Richard Newport	Bradford
Frederick Zulestein	Rochford
W ^m . Anne van Kepel	Albemarle
William Coventry	Coventry
William Villiers	Jersey
Henry d'Auverquerque	Grantham
John Poulet	Poulet
Francis Godolphin	Godolphin
George Cholmondeley	Cholmondeley
*† John Lindsay	Crawford
† William Sutherland	Sutherland
† James Ogilvy	Finlater
† Hugh Campbell	Loudoun
† John Stewart	Bute
*† Charles Hope	Hopton
*† Archibald Campbell	Ilay
*† Charles Hamilton	Selkirk
† John Campbell	Broadalbin
*† John Murray	Dunmore
† Charles Collier	Portmore
† Robert Douglass	Morton

These created since the Union.

Edward Harley	Oxford and Mortimer
Thomas Wentworth	Strafford
Henry Shirley	Ferrers
William Legg	Dartmouth
Henry Paget	Uxbridge
Lewis Watson	Rockingham
Charles Bennet	Tankerville
Heneage Finch	Aylesford
John Hervey	Bristol
George Mountagu	Hallifax

George Yelverton c	Suffex
William Cowper	Cowper
Philip Stanhope	Stanhope
Philip Sherard	Harborough
George Parker	Macclesfield
Thomas Farmer	Pomfret
Robert Ker	Wakefield
	[Marquis of Bowmont]
William Grahame	Belford
Benjamin Mildmay	Fitzwalter
John Ashburnham	Ashburnham
Spencer Compton	Wilmington
James Waldgrave	Waldgrave
Francis Howard	Effingham
Thomas Wentworth	Malton

VISCOUNTS 15.

Price Devereux	Hereford
Anthony Browne d	Montacute
Laurence Fiennes	Say and Sele
Thomas Bellasis d	Falconbergh
Charles Townshend	Townshend
Thomas Thynne	Weymouth
William Hatton	Hatton

These created since the Revolution.

Henry Lowther	Lonsdale
Henry O'Brian	Tadcaster <i>Earl of Thomond</i>
Henry St. John	St. John
Richard Temple	Cobham
Hugh Boscawen	Falmouth
John Wallop	Lymington
Simon Harcourt	Harcourt
Patte Byng	Torrington

BARONS

B A R O N S 62.

William Nevil	Abergavenny
James Touchet <i>d</i>	Audley
Algernoon Seymour	Piercy
John West	Delawar
Hugh Fortescue	Clinton
William Ward	Dudley and Ward
Thomas Stourton <i>d</i>	Stourton
Richard Verney	Willoughby of Broke
Hugh Willoughby	Willoughby of Parham
William North <i>d</i>	North and Guilford
Wm. Ferdinand Carey	Hunfdon
John St. John	St. John of Bletso
Robert Petre <i>c d</i>	Petre
Henry Arundel	Arundel of Wardour
Edward Bligh <i>c d</i>	Clifton
Charles Dormer <i>d</i>	Dormer
Henry Roper <i>c</i>	Teynham
Francis Greville <i>c</i>	Brook
Henry Maynard	Maynard
Charles Bruce	Bruce
Edward Leigh	Leigh
William Byron	Byron
Marmaduke Langdale <i>d</i>	Langdale
William Berkeley	Berkeley of Stratton
Charles Cornwallis	Cornwallis
Charles Townshend	Lynn
John Arundel	Arundel of Trerice
William Craven	Craven
Hugh Clifford <i>c d</i>	Clifford
John Carteret	Carteret
William Stawel	Stawel

These

These created since the Revolution.

Charles Butler	Butler of Weston
Henry Herbert	Herbert of Cherbury
Maurice Thompson	Haversham
Gilbert Vane	Barnard
John Lev. Gower	Gower
Fr. Seymour Conway	Conway
John Boyle (E. Orrery)	Boyle
† Charles Cathcart	Cathcart
Geo. Hay (E. Kinnoul)	Hay
Thomas Windsor	Montjoy
Thomas Mansel	Mansel
Francis Willoughby	Middleton
Thomas Trevor	Trevor
Samuel Masham	Masham
Thomas Foley	Foley
Allen Bathurst	Bathurst
Thomas Onslow	Onslow
Robert Marham	Romney
Charles Cadogan	Cadogan
Matth. Ducie Morton	Ducie
Robert Walpole, jun.	Walpole
Peter King	King
John Hobart	Hobart
John Monson	Monson
Thomas Coke	Lovel
William Stanhope	Harrington
John Hervey	Hervey
Robert Raymond	Raymond
John Poulet	Hinton
Philip Yorke	Hardwick
William Talbot	Talbot

ARCH-

ARCHBISHOPS and BISHOPS 26.

DR. *John Potter*, Lord Archbishop of *Canterbury*, translated in 1737, in the room of Dr. *Wake* deceased.

Dr. *Lancelot Blackbourn*, Lord Archbishop of *York*; translated in 1724, in the room of Sir *W. Dawes* deceased.

Dr. *Edmund Gibson*, Lord Bishop of *London*; translated in 1723. in the room of Dr. *Robinson* deceased.

Dr. *Edward Chandler*, Lord Bishop of *Durham*; translated in 1730, in the room of Dr. *Talbot* deceased.

Dr. *Benjamin Hoadly*, Lord Bishop of *Winchester*; translated in 1734, in the room of Dr. *Richard Willis* deceased.

Dr. *John Hough*, Lord Bishop of *Worcester*; translated in 1717, in the room of Dr. *Lloyd* deceased.

Dr. *John Wynn*, Lord Bishop of *Bath and Wells*; translated in 1727, in the room of Dr. *Hooper* deceased.

Dr. *Thomas Secker*, Lord Bishop of *Oxford*; translated in 1737, in the room of Dr. *Potter* translated.

Dr. *Thomas Sherlock*, Lord Bishop of *Salisbury* translated in 1734, in the room of Dr. *Hoadly* translated.

Dr. *Thomas Green*, Lord Bishop of *Ely*; translated in 1723. in the room of Dr. *Fleetwood* deceased.

Dr. *Richard Reynolds*, Lord Bishop of *Lincoln*; translated in 1723, in the room of Dr. *Gibson* translated.

Dr. *Joseph Wilcox*, Lord Bishop of *Rochester*; translated in 1731, in the room of Dr. *Bradford* deceased.

Dr. *Robert Butts*, Lord Bishop of *Norwich*; promoted in 1732, in the room of Dr. *Baker* deceased.

Dr. *George Fleming*, Lord Bishop of *Carlisle*; promoted in 1734, in the room of Dr. *Waugh* deceased.

Dr. *Henry Egerton*, Lord Bishop of *Hereford*; promoted in 1724, in the room of Dr. *Hoadley* translated.

Dr. *Richard Smallbroke*, Lord Bishop of *Litchfield* and *Coventry*; translated in 1730, in the room of Dr. *Chandler* translated.

Dr. *Thomas Gooch*, Lord Bishop of *Bristol*; promoted in 1737, in the room of Dr. *Secker* translated.

Dr. *Stephen Weston*, Lord Bishop of *Exeter*; promoted in 1724, in the room of Dr. *Blackbourn* translated.

Dr. *Robert Clavering*, Lord Bishop of *Peterborough*; translated in 1729, in the room of Dr. *Kennet* deceased.

Dr. *Samuel Peploe*, Lord Bishop of *Chester*; promoted in 1726, in the room of Dr. *Gastrel* deceased.

Dr. *Francis Hare*, Lord Bishop of *Chichester*; translated in 1731, in the room of Dr. *Waddington* deceased.

Dr. *Thomas Herring*, Lord Bishop of *Bangor*; promoted in 1737, in the room of Dr. *Sherlock* translated.

Dr. *John Harris*, Lord Bishop of *Landaff*; promoted in 1729, in the room of Dr. *Clavering* translated.

Dr. *Martin Benson*, Lord Bishop of *Gloucester*; promoted in 1734, in the room of Dr. *Sydal* deceased.

Dr. *Isaac Maddox*, Lord Bishop of *St. Asaph*; promoted in 1736, in the room of Dr. *Tanner* deceased.

Dr. *Nicholas Clagget*, Lord Bishop of *St. David's*; promoted in 1731, in the room of Dr. *Sydal* translated.

Lords spiritual and temporal

220

At the death of King *Charles II.*

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An

An EXACT LIST *of the* House of
COMMONS.

N. B. *Those in this character are new members ;
mark'd a chosen for two places.*

ABDY Sir Robert
Abercrombie James
A Court Pierce
Affleck Gilbert
Aislaby William
Alston Sir Rowland
Andover William Lord
Anstruther Sir John
Anstruther Philip
Archer William
Archer Thomas
Archer Henry
Areskine Charles *a*
Arscot Arthur
Arundel Hon. Richard
Ashe Edward
Ashe Jos. Wyndham
Ashburnham Sir William
Ashby Thomas
Ashley Solomon
Astley Sir John
Aston Sir Thomas
Austen Sir Robert
Bacon Sir Edmund
Bacon Sir Edmund
Bagot Sir Walter
Baker Hercules
Balle Thomas
Baltimore Charles Lord
Bampfild John
Bance John

Essex
Barnet
Heytesbury Wilt.
Cambridge
Rippon Yorksh.
Bedfordsh.
Castlerising
Fifeshire
Anstruther, &c.
Berks
Warwick
Warwick
Dumfriessh.
Tiverton Devon.
Knareborough Yorksh.
Heytesbury Wiltsh.
Downton ditto
Hastings Suffex
St. Albans
Brideport Dorsetsh.
Salop
St. Albans
New Romney
Thetford Norfolk
Norfolk
Staffordshire
Hythe Kent
Exeter
St. Germans Cornwall
Devonshire
Westbury Wilts

Banks

Banks John	Corfcastle Dorf.
<i>Banks Jacob</i>	Shaftsbury
<i>Barlow Lewis</i>	Orford Suffolk
<i>Barrymore [Earl of]</i>	Wigan Lancashire
Barnard Sir John	LONDON
<i>Bathurst hon. Benjamin</i>	Gloucestershire
Bathurst Henry	Cirencester
Bathurst Peter	New Sarum
Bathurst Benjamin	Gloucester
<i>Bayley Nicholas</i>	Anglesea
<i>Beagban Edw. Hungate</i>	Winchelsea
Beauclerk Lord Vere	New Windsor
Beauclerk Sidney	Ditto
Bennet Thomas	Nottinghamshire.
Berkely hon. George	Heydon Yorksh.
<i>Berkeley John</i>	Stockbridge
<i>Berkeley Henry William</i>	Taunton Somerset.
<i>Bertie hon. Albemarle</i>	Boston Lincolnsh.
Bevan Arthur	Carmarthen
<i>Bisse Stephen</i>	New Romney
<i>Blacket Walter</i>	Newcastle on Tine
Bladen Martin	Malden Essex
Bladen Thomas	Ashburnton
Bockland Maurice	Lymington Huntingd.
<i>Bold Peter</i>	Lancashire
Bond John	Corfcastle Dorsetsh.
<i>Boone Daniel</i>	Ludgershal Wilts
Bootle Thomas	Midhurst Suffex
Bows George	Durham
<i>Bowles Brig. Gen. Phineas</i>	Bewdley Worcester
<i>Bowles William</i>	Bridport
<i>Boyne Lord Viscount</i>	Newport
<i>Boynton Sir Francis</i>	Heyden Yorkshire
Bradshaigh Sir Roger	Wigan Lancashire
<i>Bradshaw Elerker</i>	Beverley Yorkshire
Bramston Thomas	Essex
<i>Brasssey Nathaniel</i>	Hertford
<i>Brereton Thomas</i>	Liverpool Lancashire
Bridges George	Winchester

Bridgman Sir Orlando	Dunwich Suffolk
Bristow Robert	Winchelsea
<i>Bristow John</i>	Boralston Dev.
Brodie Alexander	Elginshire
<i>Brodie Alex. of Letben</i>	Nairn and Cromartie shires
Bromley Henry	Cambridgeshire
<i>Brown Sir Robert</i>	Ilchester Som.
Brown John	Dorchester
<i>Brown Robert</i>	Ditto
Brudenell hon. James	Chichester
<i>Buckworth Sir John</i>	Weobly Heref.
Bulkeley Lord Viscount	Beaumaris Wales
Bunbury Sir Charles	Chester
Burchett Josiah	Sandwich Kent
Burgoyne Sir Roger	Bedfordshire
Burrel Peter	Haslemere
<i>Butler Edward</i>	Oxford University
Butler James	Suffex
Byng Robert	Plymouth Devonshire
<i>Cæsar Charles</i>	Hertfordshire
Campbell John <i>a</i>	Pembrokeshire
Campbell Col. James	Airshire
<i>Campbell Alex. Hume</i>	Berwickshire
<i>Campbell William</i>	Glasgow, &c.
<i>Campbell Charles</i>	Argyleshire
Campbell Sir James <i>a</i>	Stirlingshire
Campbell Col. John	Dunbartonshire
Campbell Peter	Bute and Caithness
Carew Sir William	Cornwall
Carey Walter	Clifton, Darmouth, &c.
Carmichael hon. James	Selkirk Peebles
Carnarvon [Marquis of]	Steining Suffex
Cartwright Thomas	Northamptonshire
Caswell Sir George	Leominster Herefordsh.
Cavendish Lord James	Derby
Cavendish Lord Charles	Derbyshire
<i>Cavendish Philip</i>	Portsmouth
Chafin George	Dorsetshire
Chamberlayne George	Buckingham

Champion

<i>Champion George</i>	Aylsbury Buckinghamsh.
<i>Chester Thomas</i>	Gloucestershire
<i>Chetwynd William</i>	Stafford
<i>Chichester Sir John</i>	Barnstable Devonshire
<i>Child Sir Francis</i>	Middlesex
<i>Cholmondeley Charles</i>	Cheshire
<i>Cholmondeley James</i>	Camelford Cornwall
<i>Churchill Maj. Gen. Cha.</i>	Castlerising Norfolk
<i>Chute Anthony</i>	Yarmouth
<i>Clerke Sir Thomas</i>	Hertford
<i>Clavering John</i>	Penryn Cornwall
<i>Clayton Sir William</i>	Bletchingley Surrey
<i>Clayton Kenrick his son</i>	Ditto
<i>Clifton Sir Robert</i>	East Retford Notting.
<i>Clutterbuck Thomas</i>	Plympton Devonshire
<i>Coats Dr. Charles</i>	Tamworth
<i>Cockburn John</i>	Haddingtonshire
<i>Cocks James</i>	Rygate Surrey
<i>Coddrington John</i>	Bath
<i>Coddrington Sir William</i>	Minehead Somersetshire
<i>Compton George a</i>	Northampton
<i>Conolly William</i>	Alborough Suffolk
<i>Conyers Edward</i>	East Grimstead
<i>Cope Sir John</i>	Lymington Hants
<i>Copleston Thomas</i>	Kellington Cornwall
<i>Corbet Sir Richard</i>	Shrewsbury
<i>Corbert William</i>	Montgomery
<i>Corbet Thomas</i>	Saltaſh Cornwall
<i>Cornbury Lord Viſc.</i>	Oxford univerſity
<i>Cornewal Velters</i>	Herefordshire
<i>Cornwal James</i>	Weobly Herefordshire
<i>Cornwallis hon. James</i>	Eye Suffolk
<i>Cornwallis hon. Stephen</i>	Ditto
<i>Coster Thomas</i>	Bristol
<i>Cotton Sir John Hynd</i>	Cambridge
<i>Courtenay Kelland</i>	Truro Cornwall
<i>Courtenay William jun.</i>	Heniton Dev.
<i>Crawley John</i>	Marlb. Wilts
<i>Crewe John jun.</i>	Cheshire

<i>Crosse John</i>	Lestwithiel Cornwall
Crowle George	Kingston on Hull
<i>Cunningham Alexander</i>	Renfrew
Curzon Sir Nathan.	Derbyshire
<i>Curzon William</i>	Clithero Lancash.
Dalrymple hon. William	Wigtounshire
D'Anvers Joseph	Totness Devon.
Darcy Sir Conyers	Richmond Yorksh.
Davers Sir Jermyn	Suffolk
<i>Darwins James</i>	New Woodstock
<i>Delmè Peter</i>	Ludgershal Wilts
<i>Dennis George</i>	Leskard Cornwall
Dering Sir Edward	Kent
Devereux hon. Price	Montgomeryshire
Digby hon. Edward	Warwickshire
Docminique Charles	Gatton Surrey
Doddington George a	Bridgwater, Melcombreg
Douglas Robert	Orkney and Zetland
Downing Sir George	Dunwich Suffolk
Drake Sir Fran. Henry	Boralston Devon.
Drax Henry	Wareham Dorset.
Drummond John	Perth <i>Burgh</i> , &c.
Ducket Col. William	Caln Wilts
<i>Dummer Th. Lee</i>	Southamp. town
Duncombe Anthony	Downton Wilts
<i>Duncombe Thomas</i>	Rippon Yorkshire
<i>Earle Geo. of Euston</i>	Coventry
Earle Gyles	Malmſbury Wilts
Earle William Rawlinſon	Ditto
Edgcumbe Richard a	Lestwithiel Cornw.
Edwards Samuel	Great Wenlock Salop
Eliot Richard	Leskard Cornwall
Elton Sir Abraham	Bristol
<i>Erskine hon. James</i>	Kinroſs and Clack.
<i>Evans hon. George</i>	Westbury Wilts
Evans Capt. Richard	Queenborough Kent
Evelyn John	Helſton Cornwall
Eversfield Charles	Horſham Suffex
Eyles Sir Joſeph	Devizes Wilts

Eyles Capt. Francis	Ditto
<i>Fagg Sir Robert</i>	Steypning Suffex
<i>Falconer John</i>	Kincardineshire
<i>Fall James</i>	Jedburgh, &c.
<i>Fane hon. Charles</i>	Tavistock Devon.
Fane Francis	Taunton Somerset
Fazakerley Nicholas	Preston Lancashire
<i>Fenwick Robert</i>	Lancaster
Fenwick Nicholas	Newcastle upon Tyne
Finch hon. Edward	Cambridge University
Finch William	Cockermouth Cumberl.
Finch hon. John	Higham Ferrers North.
Finch hon. John	Maidstone Kent
Finch hon. Henry	Malton Yorksh.
<i>Firebrace Sir Cordel</i>	Suffolk
Fitzroy Charles	Thetford Norf.
<i>Foley Thomas jun.</i>	Hereford
<i>Foley Thomas sen.</i>	Stafford
Foley Edward	Droitwich Worcester sh.
Forbes Sir Arthur	Aberdeen
<i>Forrester William</i>	Great Wenlock
Fortescue hon. Theo.	Barnstaple Devon.
Fox Henry	Hindon Wilts
<i>Fox George</i>	Ditto
<i>Fox Stephen</i>	Shaftesbury
Frankland Sir Thomas	Thirsk Yorkshire
<i>Frankland Frederick</i>	Ditto
<i>Frederick Thomas</i>	Shoreham Suffex
Fydell Richard	Boston Lincoln.
Gage Lord Viscount	Tewksbury Gloucester sh.
Gage Sir William	Seaford Suffex
Galway Lord Viscount	Pontefract Yorkshire
<i>Gibson Thomas</i>	Yarmouth
<i>Gildart Richard</i>	Liverpoole
<i>Gilmor Sir Charles</i>	Edinburghshire
Glanville William	Hythe Kent
Glenorchy Lord Visc.	Saltash Cornwall
Gore Thomas	Agmondesham Bucks
Gough Sir Henry	Bramber Suffex

<i>Gough Capt. Henry</i>	Ditto
<i>Gower William</i>	Cricklade Wilts
<i>Gower Wil^m. Leveson</i>	Stafford
<i>Gower Baptist Leveson</i>	Newcastle Staffordshire
<i>Grant Sir James</i>	Invernesshire
<i>Greenville Richard</i>	Buckingham
<i>Gregory George</i>	Boroughbridge Yorksh.
<i>Grey Henry</i>	Reading Berks
<i>Griffith John</i>	Carnarvonshire
<i>Grove Gray James</i>	Bridgnorth
<i>Grovesnor Sir Robert</i>	Chester
<i>Guiddot William</i>	Andover Hants
<i>Gulston John</i>	Tregony Cornwall
<i>Gibbon Edward</i>	Petersfield Hants
<i>Gybbon Philip</i>	Rye Suffex
<i>Haddock Nicholas</i>	Rocheſter
<i>Halket Capt. Peter</i>	Stirling, &c.
<i>Hamilton Lord Archib.</i>	Queenborough
<i>Hamilton Alexander</i>	Linlithgowshire
<i>Hamilton Sir James</i>	Lanerkshire
<i>Hampden John</i>	Wendover Bucks
<i>Handafyd Roger</i>	Huntingdon
<i>Hales Thomas</i>	Grampound Corn.
<i>Hales Sir Thomas</i>	Canterbury
<i>Harley Robert</i>	Leominſter Herefordſh.
<i>Harley Edward</i>	Herefordſhire
<i>Harris John</i>	Helſton Cornwall
<i>Harvey Michael</i>	Milborn Port Somerſetſh.
<i>Hawkins Philip</i>	Grampound Cornwall
<i>Hay William</i>	Seaford Suffex
<i>Heathcote Sir William</i>	Southampton
<i>Heathcote George</i>	Southwark
<i>Heathcote Sir John</i>	Bodmin Cornw.
<i>Hedworth John</i>	Durham County
<i>Henley Henry Holt</i>	Lyme Dorſet
<i>Herbert hon. Thomas</i>	Newport Cornw.
<i>Herbert Henry Arthur</i>	Ludlow Salop
<i>Herbert Richard</i>	Ditto
<i>Herbert hon. Robert</i>	Wilton Wilts
	M 2 <i>Herberts</i>

<i>Herbert William</i>	Ditto
Heron Patrick	Kirkudbright Stewarty
Hervey Thomas	St. Edmundsbury Suffolk
<i>Hill Sir Rowland</i>	Litchfield
Hinxman Joseph	Christchurch Southamp.
<i>Hoare Henry</i>	New Sarum
Hoby Sir Thomas	Great Marlow Bucks
Holden Samuel	West Low
<i>Holmes Thomas</i>	New Town, isle of Wight
<i>Hooper Edward</i>	Christchurch
Horner Thomas	Somersetshire
<i>Houblon Jacob</i>	Colchester
Houghton Sir Henry	Preston Lancashire
Hotham Sir Charles	Beverly Yorkshire
Howard Col. Charles	Carlisle Cumberland
Howarth Sir Humphrey	Radnorshire
Howe John	Wiltshire
Hucks William	Wallingford Berks
Hucks Robert	Abingdon Berks
<i>Hungerford Walter</i>	Calne Wilts
Huxley George	Newport Hants
Hylton John	Carlisle Cumberland
<i>Jefferies John</i>	Breconshire
Jekyl Sir Joseph	Rygate Surrey
Jenison Ralph	Northumberland
Jewkes John	Aldborough Yorkshire
Ingram Charles	Horsham Suffex
Inwen Thomas	Southwark
<i>Jolyff Sir William</i>	Petersfield Hants
Irby Sir William, Bart.	Launceston Cornwall
Isham Sir Justinian	Northamptonshire
<i>Kaye Sir John Lister</i>	York
<i>Kent Samuel</i>	Ipswich Suffolk
<i>Kinaston William</i>	Shrewsbury
<i>Kirkpatrick William</i>	Dumfreisburgh, &c.
Knight Bulstrode	Midhurst Suffex
<i>Knight Robert</i>	Great Grimsby Lincoln.
<i>Kynaston Edward</i>	Bishopscastle Salisbury
<i>Kynaston Corbet</i>	Salop
<i>Lambton Henry</i>	Durham
	Laroche

Laroche John	Bodmin Cornwall
<i>Lawton John</i>	Newcastle Staffordshire
Leathes Carteret	Harwich Essex
<i>Lechmere Edmund</i>	Worcestershire
Lee Sir Thomas	Bucks
Lee George	Brackley Northampton.
Leheup Isaac	Kellington Cornwall
<i>Leslie Thomas</i>	Dysert, &c.
Levinz William	Nottinghamshire
Lewis Thomas	New Radnor
<i>Liddel Sir Henry, Bart.</i>	Morpeth Northumberl.
Liddel George	Berwick
Limerick Lord Viscount	Wendover
Lindsay Patrick	Edinburgh
Lisle Edward <i>a</i>	Southamptonshire
Lister Thomas	Clithero Lancashire
<i>Lloyd Walter</i>	Cardiganshire
Lloyd Richard	Cardigan
<i>Lockwood Richard</i>	Worcester
Lockyer Charles	Ilchester Somersetshire
<i>Long Sir Robert, Bart.</i>	Wotton Bassett Wilts
<i>Long Richard</i>	Chippenham Wilts
Longueville Charles	Eastlow Cornwall
Lowther Sir William	Pontefract Yorkshire
Lowther Sir Thomas	Lancaster
Lowther hon. Anthony	Westmoreland
Lowther Sir James	Cumberland
Lumley John	Arundel Suffex
Lyttleton Sir Thomas	Camelford Cornwall
Lyttleton George	Okehampton
<i>Maister Henry</i>	Kingston on Hull
<i>Mansel Bussey</i>	Glamorganshire
<i>Marshal Henry</i>	Agmondesham Bucks
<i>Martin Matthew</i>	Colchester
Master Thomas	Cirencester Gloucestersh.
Master Leigh	Newton Lancash.
<i>Mawle Henry</i>	Forfarshire
<i>May Thomas</i>	Canterbury

Meadows Sidney	Tavistock Devonsh.
Medlycott Thomas	Milborn Port Som.
Methuen hon. Sir Paul	Brackley Nor.
<i>Middlesex [Earl of]</i>	East Grimstead Suffex
Middleton Sir William	Northumberland
Middleton Col. John	Aberdeen, Montrose
Myddleton John	Denbigh
Mill Sir Richard	Penryn Cornwall
<i>Molesworth Sir John</i>	Newport Cornwall
Monoux Sir Humphrey	Stockbridge Southam.
Monro Sir Robert	Kirkwal, Week, Tain, &c
<i>Monson Charles</i>	Lincoln
Montagu hon. Edw.	Huntingdon
<i>Montagu Charles</i>	St. Germans Cornw.
<i>Montague Lord Robert</i>	Huntingdonshire
Mordaunt Sir Cha, Bart.	Warwickshire
Mordaunt J.	Whitchurch
More Robert	Bishopscastle Salop
<i>Morgan Sir John</i>	Hereford
Morgan Thomas	Monmouthshire
Morice Sir William	Launceston Cornwall
Morpeth Lord Viscount	Morpeth Northumb.
<i>Moyston Thomas</i>	Flintshire
<i>Murray Brig. Gen. Robert</i>	Great Bedwin
Murray John	Selkirkshire
<i>Murray Lord John</i>	Perthshire
Nasmith Sir James	Peebles
<i>Neale John</i>	Coventry
<i>Needham Robert</i>	Old Sarum
Newland William	Gatton Surrey
Newton Sir Michael	Grantham Linc.
Noel William	Stamford Linc.
<i>Noel hon. Thomas</i>	Rutland
<i>Noel James</i>	Ditto
Norris Sir John	Rye Suffex
<i>Northcote Sir Henry Bart.</i>	Exeter
Norton Thomas	St. Edmundsbury Suffolk
Oglethorp James	Haslemere Surrey
<i>Olmius John</i>	Weymouth Dorsetsh.
	Ongley

Ongley Samuel	Bedford
Onslow hon. Arthur	Surrey
Onslow Col. Richard	Guilford Surrey
<i>Onslow hon. Richard</i>	Ditto
<i>Ord Robert</i>	St. Michael's Cornwall
<i>Osbaldiston William</i>	Scarborough Yorksh.
Owen William	Pembroke
Owen John	Eastlow Cornwall
Oxenden Sir George	Sandwich Kent
Packer Winchcomb	Berkshire
Packington Sir Herb.	Worcestershire
Palmerston Lord Visc.	Bossiney Cornwall
Papillon David <i>a</i>	Dover
<i>Parker Armsted</i>	Peterborough
Parsons Humphrey	L O N D O N
Parsons Henry	Malden Essex
<i>Pawlet Peregrine</i>	Bossiney Cornwall
Pearse Thomas	Weymouth Dorset.
Peirse Henry	Northallerton Yorkshire
Pelham Thomas	Lewes Sussex
Pelham Thomas	Ditto
Pelham hon. Henry <i>a</i>	Sussex
Pelham James	Newark Nott.
Pelham Thomas <i>jun.</i>	Hastings Sussex
<i>Penton Henry</i>	Tregony Cornwall
<i>Pennington Sir Joseph</i>	Cumberland
Perrot Henry	Oxfordshire
Perry Micajah	L O N D O N
Philips Erasmus	Haverford-West Pem.
Philips Ambrose	Leicestershire
<i>Philipson John</i>	Shoreham Sussex
Piers William	Wells Somersetshire
Pigot Robert <i>a</i>	Huntingdonshire
Pit William <i>a</i>	Old Sarum
<i>Pitt John</i>	Wareham Dorsetshire
<i>Pitt Thomas</i>	Oakhampton
Pleydel Edm. Mor.	Dorsetshire

Plumer Richard	St. Maw's Cornwall
<i>Plumer William</i>	Hertfordshire
Plumer Walter	Apulby Westm.
Plumtree John	Nottingham
Polhill David	Rochester
<i>Pollen John</i>	Andover Hants
<i>Polwarth Lord</i>	Berwick
Pottenger Richard	Reading Berks
Powel Sir Christopher	Kent
<i>Powis Richard</i>	Orford Suffolk
Powlet Lord Harry a	Southamptonshire
<i>Praed Will. Mackworth</i>	St. Ives Cornwall
<i>Price Richard</i>	Sudbury Suffolk
<i>Proby John</i>	Stamford Linc.
Pulteney William	Middlesex
Purvis Capt. George	Aldborough Suffolk
Ramsden John	Apulby Westm.
Rashleigh Jonathan	Fowey Cornwall
Read Sir Thomas	Cricklade Wilts
<i>Revel Thomas</i>	Dover Kent
Rich Sir Robert	St. Ives Cornwall
Rider Dudley	Tiverton Dev.
<i>Robinson Nicholas</i>	Wotton Bassett Wilts
Rolle Henry	Devonshire
<i>Rolt Raynton</i>	Chippenham
<i>Rose Hugh</i>	Rossshire
Rowney Thomas	Oxford
Rushout Sir John	Evesham Worc.
<i>Rutherford John jun.</i>	Roxburgshire
<i>Sackville Lord John</i>	Tamworth
St. Aubin Sir John	Cornwall
<i>St. Clair Col. James</i>	Sutherlandshire
<i>St. John Paulet</i>	Winchester
Sambrooke Sir Jer.	Bedford
Sandys Samuel	Worcester
Saunderson Sir Thomas	Lincolnshire
Scawen Thomas	Surrey
Scrope hon. John	Lyme Dorset
<i>Selwyn John jun.</i>	Whitchurch Hants
	Selwyn

Selwyn John	Gloucester
Seymour Francis	Marlborough Wilts
Shafto John	Durham
Shelley Sir John	Arundel Suffex
Shepherd Samuel	Cambridgeshire
Shippen William	Newton Lancashire
Shuttleworth Richard	Lancashire
<i>Sibthorp Conningby</i>	Lincoln
<i>Skinner Matthew</i>	Oxford
Slingsby Sir Henry	Knareborough Yorksh.
Sloper William	Great Bedwin Wilts
Smelt Leonard	Northallerton Yorksh.
<i>Smith Edward</i>	Leicestershire
Somerset Lord Cha. Noel	Monmouthshire
Speke George	Wells Somersetsh.
<i>Spencer John</i>	New Woodstock
Stanhope Sir William	Bucks
Stanhope Charles	Harwich Essex
Stanhope John	Derby
Stapleton Sir William	Oxfordsh.
<i>Stapylton Sir Miles</i>	Yorksh.
<i>Stephenson Edward</i>	Sudbury Suffolk
Stert Arthur	Plymouth Dev.
Stewart William	Elgin, Cullen, &c.
<i>Stewart Capt. James</i>	Wigtoun, &c.
<i>Stewart Admiral</i>	Portsmouth
<i>Strange John</i>	Westlow
Strickland Sir William	Scarborough Yorksh.
<i>Stuart Col. James</i>	Air, Irwin, &c.
<i>Sundon Lord</i>	Westminster
Sutton Sir Robert	Great Grimsby Linc.
<i>Talbot hon. John</i>	Brecon
Talbot John Ivory	Wilts
<i>Taylor William</i>	Evesham Worcestersh.
Thompson Edward	York
Thompson William	Scarborough Yorkshire
Towers Christoph.	Aylesbury Buck.
Towers Thomas	Wallingford Berkshire

Townshend hon. Will.	Great Yarmouth Norfolk
Townshend hon. Thomas	Cambridge University
<i>Tracey Robert</i>	Tewksbury Gloucest.
Treby George	Clifton, Dartmouth, &c.
<i>Trefusis Robert</i>	Truro Cornw.
Trenchard George	Pool Dorsetshire
Tucker John	Melcomb Regis
Tuckfield Roger	Ashburton Dev.
Turner Sir Cha.	Lynn Norfolk
Turner Cholmley	Yorkshire
<i>Turner Will. Horsmand.</i>	Maidstone Kent
Tyrconnel Lord Visc.	Grantham Linc.
Tyrrel James	Boroughbridge Yorksh.
Vane hon. Henry	St. Maws Cornw.
<i>Vaughan William</i>	Merionethshire
Vere Thomas	Norwich
Vernon Geo. Vena.	Litchfield Staffordsh.
<i>Vernon Sir Charles</i>	Chipping Wicomb
<i>Urquhart jun. Duncan</i>	Nairne, &c.
Vyner Robert	Lincolnshire
Wade General Geo.	Bath
Wager Sir Charles	Westminster
Walker Thomas	Plympton Devon.
Waller Harry	Chipping Wicomb Bucks
Waller Edmund <i>a</i>	Great Marlow Bucks
Wallingford Lord	Banbury Oxfordshire
Walpole Sir Robert	Lynn Norfolk
Walpole hon. Horatio	Norwich Norfolk
Walpole Edward	Great Yarmouth
<i>Wardour William</i>	Fowey
Warren Borlace	Nottingham
<i>Watts Thomas</i>	St. Michael's Cornwall
Wentworth Sir William	Malton Yorkshire
White John	East-Retford Nott.
<i>Whitmore Thomas</i>	Bridgnorth Sal.
Whitworth Francis	Minehead Som.
<i>Wigly James</i>	Leicester
Wilkinson And.	Aldb. Yorkshire
William Sir Nicholas	Carmarthanshire

Williams

<i>Williams Cha. Hanbury</i>	Monmouthshire
<i>Willimot Robert</i>	L O N D O N
<i>Wills Sir Charles</i>	Totness Devon.
<i>Wilmer William</i>	Northampton
<i>Wilson Daniel</i>	Westmoreland
<i>Windham Thomas</i>	Pool Dorsetshire
<i>Windsor Herbert</i>	Cardiff Glamorganshire
<i>Winnington Thomas</i>	Droitwich Worcest.
<i>Wodehouse Armine</i>	Norfolk
<i>Woolaston William</i>	Ipswich Suffolk
<i>Worsley James</i>	Newton in Isle of Wight
<i>Wortley Ed. Montagu</i>	Peterborough
<i>Wright George</i>	Leicester
<i>Wyndham Sir William</i>	Somersetshire
<i>Wyndham Charles</i>	Bridgwater
<i>Wynn Thomas</i>	Carnarvon
<i>Wynn Watkin Williams</i>	Denbighshire
<i>Wynn Sir George</i>	Flint
<i>Yates Thomas</i>	Chichester
<i>Yonge Sir William a</i>	Honiton Dev.
<i>Yorke John</i>	Richmond Yorkshire.

The third session of the fourth Septennial Parliament.

TUESDAY, February 1, the Parliament having, on account of the King's fatigue during his voyage, been prorogued to this day, from Friday, January 21, (which was the day of their first meeting) and being met accordingly, a message was brought to the Commons by Sir *Charles Dalton*, gentleman usher of the black rod, from the Lords authorized by his Majesty's commission, desiring the immediate attendance of that honourable house in the house of Peers, to hear the commission read; and Mr. Speaker, with the house, going into the house of Peers, the Lord Chancellor, sitting with several other Lords on a form, between the throne and the wool-sacks, said to the effect following:

My Lords and Gentlemen,

‘ **W**E are commanded by his Majesty to let
 ‘ you know, that as it is not convenient for
 ‘ his Majesty to be present here this day in his royal
 ‘ person, he has been pleased, by letter patent under
 ‘ the great seal, to authorize his royal highness the
 ‘ Prince of *Wales*, and several Lords therein men-
 ‘ tioned, to do every thing in the name of his Ma-
 ‘ jesty, which ought to be done on the part of his
 ‘ Majesty in this Parliament, as many more fully ap-
 ‘ pear by the letter patent.’

Then the said letter patent being read, the Lord Chancellor, as one of the commissioners, made the following speech to both houses of Parliament.

‘ *My*

‘ *My Lords and Gentlemen,*

‘ **I** N purfuance of the authority given us by his The Lords
 ‘ Majesty’s commission under the great seal, Commiffi-
 ‘ among other things, to declare the caufes of his oners fpeech
 ‘ holding this Parliament, we are, by his Majesty’s to both hon-
 ‘ command, in the firft place, to obferve to you, fes.
 ‘ that his Majesty acquainted you laft year, that he
 ‘ had, in conjunction with the States General, given
 ‘ his approbation of certain preliminary articles,
 ‘ concerted and agreed upon between the Emperor
 ‘ and *France*, for reftoring the peace of *Europe* ;
 ‘ and that a farther convention, concerning the
 ‘ execution of them, had been communicated to
 ‘ him by both thofe courts ; and that negotiations
 ‘ were carrying on by the feveral powers engaged
 ‘ in the late war, in order to fettle the general pa-
 ‘ cification.

‘ We are now commanded by his Majesty to in-
 ‘ form you, that the refpective acts of ceflion being
 ‘ exchanged, and orders given for the evacuation
 ‘ and poffeffion of the feveral countries and places
 ‘ by the powers concerned, according to the allot-
 ‘ ment and difpofition of the preliminary articles,
 ‘ the great work of re-eftablifhing the general tran-
 ‘ quillity is far advanced ; however, it is his Ma-
 ‘ jefty’s opinion, that common prudence calls upon
 ‘ us to be very attentive to, and obferve the final
 ‘ conclufion of this new fettlement of fuch confider-
 ‘ able parts of *Europe* : It is to be hoped, that a ge-
 ‘ neral and lafting tranquillity will follow this refti-
 ‘ tution of peace, and that the renewal of friendship
 ‘ and alliances for the prefervation of it, among the
 ‘ feveral princes and powers of *Europe*, will remove
 ‘ all dangers and apprehenfions of any new troubles
 ‘ and diforders ; but his Majesty apprehends, that
 ‘ an indolent fecurity, and too great a difregard to
 ‘ future events, may occafion mifchiefs, more eafy
 ‘ to be prevented than to be remedied ; and that
 ‘ it

‘ it would be very unadvisable to leave ourselves in
‘ so defenceless a condition, as to encourage any en-
‘ terprizes, which the enemies to the public peace
‘ may have vainly suggested, and flattered themselves
‘ with the hopes of.

‘ *Gentlemen of the house of Commons,*

‘ His Majesty has ordered the proper officers to
‘ lay before you the estimates for the service of the
‘ current year : As soon as the circumstances of the
‘ times would permit, his Majesty was pleased to
‘ make such a reduction of some part of the public
‘ expences, for the ease of his people, as was con-
‘ sistent with the peace and safety of his kingdoms,
‘ the security of our commerce, and the honour and
‘ interest of the nation.

‘ *My Lords and Gentlemen,*

‘ His Majesty has been graciously pleased to di-
‘ rect us to acquaint you, that he hath seen, with
‘ the greatest satisfaction, the unwearied application
‘ of this Parliament, in framing good laws for ad-
‘ vancing the prosperity, and securing the welfare of
‘ his loving subjects : And that it hath been one of
‘ his Majesty’s principal cares to enforce them by a
‘ due execution, with the strictest regard to the
‘ rights and properties of his people, no invasion
‘ whereof can, with any colour, be suggested by
‘ the most malicious enemies of the present establish-
‘ ment : While this hath been our condition, his
‘ Majesty cannot but observe, that it must be mat-
‘ ter of the utmost surprize and concern to every true
‘ lover of his country, to see the many contrivances
‘ and attempts carried on in various shapes, and in
‘ different parts of the nation, tumultuously to resist
‘ and obstruct the execution of the laws, and vio-
‘ late the peace of the kingdom. These disturbers
‘ of the public repose, conscious that the interests of
‘ his Majesty and his people are the same, and of
‘ the

‘ the good harmony which happily subsists between
 ‘ him and his Parliament, have levelled their sedi-
 ‘ tion against both ; and in their late outrages have
 ‘ either directly opposed, or at least endeavoured, to
 ‘ to render ineffectual some acts of the whole Legi-
 ‘ slature. His Majesty, in his great wisdom, thinks
 ‘ it affords a melancholy prospect, to consider to
 ‘ what height these audacious practices may rise, if
 ‘ not timely suppressed ; and that it deserves no
 ‘ small attention, that they may go on to affect pri-
 ‘ vate persons in the quiet enjoyment of their pro-
 ‘ perty, as well as the general peace and good order
 ‘ of the whole. His Majesty apprehends it to be
 ‘ unnecessary to enlarge upon a subject of this na-
 ‘ ture, and therefore hath commanded us barely to
 ‘ mention it to you, who, by the constant tenor of
 ‘ your conduct, have shewn, that you consider the
 ‘ support of his authority, and the security of his
 ‘ government, as inseparable from the preservation
 ‘ of the public tranquility, and your own safe-
 ‘ ty.’

The address of the right hon. the house of Lords
 was next day presented to his Majesty, which is as
 follows :

‘ *Most gracious Sovereign,*

‘ **W**E your Majesty’s most dutiful and loyal
 ‘ subjects, the Lords spiritual and temporal
 ‘ in Parliament assembled, beg leave to approach
 ‘ your throne, with hearts full of that zeal and af-
 ‘ fection for your person and government, which
 ‘ become the most faithful subjects to the best of
 ‘ Kings.

The Lords
 Address.

‘ Our duty and gratitude to your Majesty have,
 ‘ on many occasions of this nature, called upon us
 ‘ to lay at your royal feet our thankful acknowledg-
 ‘ ments for preserving to your own subjects the blef-
 ‘ sings of peace ; and the additional motive of our
 ‘ unfeigned

‘ unfeigned regard to the common interests of *Eu-*
‘ *rope*, in which it is impossible for this nation to be
‘ unconcerned, makes us now receive, with great
‘ satisfaction, your gracious communication, that the
‘ re-establishment of the general tranquillity is far
‘ advanced.

‘ How happy and secure soever your Majesty’s
‘ wisdom, under the protection of the divine provi-
‘ dence, may render these kingdoms, it was impos-
‘ sible for us to remain wholly unaffected with the
‘ miseries of war, suffered by other parts of *Christen-*
‘ *dom*; and we cannot but rejoice in the pleasing
‘ hopes, that all dangers and apprehensions of new
‘ troubles may be happily removed.

‘ At the same time, we esteem it a fresh instance
‘ of your Majesty’s never failing care of the public
‘ welfare, that you put us in mind to be attentive to
‘ the final conclusion of this great work. As your
‘ Majesty hath, on your part, distinguished your
‘ paternal tenderness for your people, in not permit-
‘ ting them to be hastily involved in the calamities
‘ of war; it would be the most unbecoming return
‘ for so great a benefit, to shew any signs of an in-
‘ dolent security; And we beseech your Majesty to
‘ accept the strongest and most affectionate assuran-
‘ ces, that we can never entertain the least thought
‘ of leaving ourselves in a defenceless condition; but
‘ that we will always chearfully concur in all such
‘ measures as shall be necessary to maintain the ho-
‘ nour and safety of your Majesty and your govern-
‘ ment, and the true interest of your kingdoms.

‘ The gracious approbation which your Majesty
‘ is pleased to give of the conduct of this Parliament,
‘ affords us great comfort and encouragement; and
‘ your vigilant care to execute the laws with justice
‘ and impartiality, and to protect the rights and
‘ properties of all your subjects, fills our minds with
‘ the most lasting impressions of thankfulness. Un-
‘ der this deep sense of our obligations to your Ma-
‘ jesty,

' jesty, we cannot sufficiently express our detestation
 ' of those insolent riots and tumults, which have of
 ' late appeared in different parts of the kingdom,
 ' in defiance of the law, and violation of the public
 ' peace. Every part of the behaviour of these dar-
 ' ing offenders appears to us as weak and unreasona-
 ' ble as it is wicked ; except that they have confi-
 ' dered the interests and views of your Majesty and
 ' your Parliament, as being so closely united, that it
 ' was impossible to traduce or oppose the one, with-
 ' out including the other. Our duty, as well as
 ' our safety, makes it incumbent upon us to give
 ' another mark of this happy union, by testifying
 ' our humble concurrence in your Majesty's just
 ' opinion, that such audacious practices ought to be
 ' timely suppressed : And as we do, with the firm-
 ' est confidence, rely on your Majesty's authority
 ' being prudently and vigorously exerted for this ne-
 ' cessary end ; so we assure your Majesty, with the
 ' greatest sincerity, that our endeavours and assistance
 ' shall never be wanting to support that authority,
 ' and to preserve the quiet and security of the na-
 ' tion.'

To which address his Majesty returned the fol-
 lowing answer :

My Lords,

I Thank you for this dutiful and loyal address. The
 affection you shewed to my person and government,
 gives me the greatest satisfaction.

My principal care is to secure to my people the bles-
 sings of peace, and the full and undisturbed enjoyment
 of all their civil and religious rights, and to preserve
 the tranquillity and good order of the kingdom.

The continuance of the good harmony between me and
 my Parliament, will enable me to pursue with effect
 these great and desirable ends.

The address of the hon. house of Commons was presented to the King as follows :

Address of
the house of
Commons.

‘ *Most gracious Sovereign,*

‘ **W**E your Majesty’s most dutiful and loyal
‘ subjects, the Commons of *Great Britain* in
‘ Parliament assembled, return your Majesty our
‘ most humble thanks for the speech delivered, by
‘ your Majesty’s command, to both houses of Par-
‘ liament.

‘ We see, with great satisfaction, the happy pro-
‘ spect of the final conclusion of the general pacifi-
‘ cation of *Europe* ; and when we remember your
‘ Majesty’s unwearied endeavours to prevent this
‘ nation from being involved in the calamities
‘ of a destructive war, and your constant application
‘ in contributing to the utmost of your power to-
‘ wards the great work of restoring peace, from the
‘ tender care and concern, which your Majesty has
‘ always shewn for the future peace and prosperity of
‘ your people, as well as for the common welfare of
‘ mankind, we make no doubt but that your
‘ Majesty will continue to co-operate with your
‘ good allies, that the conclusion of the peace
‘ may be attended with a general and lasting tran-
‘ quility.

‘ Duty and gratitude to your Majesty, and a due
‘ regard to our own interests and security, will en-
‘ gage us not to neglect any necessary precautions,
‘ which may best conduce to enable your Majesty to
‘ disappoint and defeat all groundless hopes and ex-
‘ pectations, which the deluded enemies of the pub-
‘ lic peace may have vainly suggested and flattered
‘ themselves with.

‘ And we beg leave to assure your Majesty, That
‘ we will chearfully and effectually raise the supplies
‘ necessary for the service of the current year, and
‘ support your Majesty in all such measures, as shall
‘ be found requisite to preserve the peace and safety
‘ of

‘ of the kingdom, the security of our commerce,
‘ and the honour and interests of your Majesty and
‘ your dominions.

‘ *Most gracious Sovereign,*

‘ Your faithful Commons cannot, without a just
‘ indignation, observe the spirit of faction and se-
‘ dition, which has lately manifested itself in tradu-
‘ cing and misrepresenting the legislature, in con-
‘ temning all authority, and in open defiance to the
‘ laws of the land.

‘ It is with the highest sense of duty and grati-
‘ tude, we acknowledge your Majesty’s goodness,
‘ not only in your ready concurrence to all such
‘ wholesome laws, as have been from time to time
‘ prepared by your Parliament, but in your constant
‘ care to enforce them by a due execution, with the
‘ strictest regard to the rights and properties of your
‘ people, and without the least colour and shadow of
‘ any design or attempt to stretch or violate the
‘ known laws of this realm.

‘ We cannot sufficiently express our abhorrence of
‘ the many wicked and detestable practices, which
‘ the disturbers of the public repose have secretly
‘ fomented, and openly carried on, in tumultuously
‘ resisting and obstructing the execution of the laws,
‘ and violating the peace of the kingdom.

‘ And we, your faithful Commons, do assure
‘ your Majesty, That being fully persuaded that the
‘ preservation of the public tranquillity, and our
‘ own safety, are inseparable from the security of
‘ your government, we will support your royal
‘ authority in suppressing and subduing all seditious
‘ and riotous attempts, that threaten the very being
‘ of our happy constitution, and the utter subversion
‘ of those liberties, which have been made the spe-
‘ cious pretence for committing those outrageous dis-
‘ orders.

The King's
answer.

HIS Majesty returns this house his thanks for their most dutiful and loyal address; and shall always esteem their zeal and affection for his person and government, as the best and most acceptable return for his constant endeavours to render this nation happy and flourishing, both at home and abroad.

His Majesty relies upon the wisdom of his Parliament, to frame such laws as shall be necessary to strengthen and support the authority of his government, in preserving the public tranquillity, and securing the rights and properties of his people; and his faithful Commons may depend upon him for a just and due execution of them.

As these addressees were agreed to without any debate or division, the first remarkable affair, that happened in either house, was on *Thursday* the 10th of *February*, in the house of Lords, when that house, according to order, resolved itself into a committee of the whole house, for taking his Majesty's speech into consideration, upon which occasion there was not properly any formed debate upon any one point, and therefore we shall give the heads of some of the most remarkable speeches that were made.

The Lord *Delawar* having taken the chair, the Lord *Carteret* stood up and spoke to the following effect, *viz.*

Lord Carteret's speech concerning riots.

‘ My Lords, his Majesty in his speech delivered to us by his commissioners, most justly took notice of the many riots and tumults that have lately happened in this kingdom; and as his Majesty most wisely thought it an affair of such consequence as to deserve being mentioned by him to his Parliament, I expected that this house would have immediately resolved upon taking that part of his Majesty's speech into consideration; but as a motion

‘ tion for that purpose would have come more pro-
‘ perly from some other Lords, I delayed for some
‘ days taking notice of it, or making any motion for
‘ our taking that affair into our consideration. This,
‘ my Lords, was my reason for allowing some of
‘ the first days of the session to pass over, without
‘ taking the least notice of what his Majesty had
‘ so wisely and so necessarily mentioned in his
‘ speech ; but upon finding no step made towards
‘ it by any other Lord, as I thought it an affair
‘ which ought not to be delayed, I took the li-
‘ berty to move your Lordships for the committee
‘ you are now in ; and as I moved for your going
‘ into this committee, I think it incumbent upon
‘ me now to explain what I meant or intended by
‘ my motion.

‘ Tho’ none of the riots or tumults that have late-
‘ ly happened in this kingdom, seem to have been
‘ aimed directly against the government, yet, my
‘ Lords, it must be granted, that no such thing can
‘ happen in any country, in which the government
‘ is not some way concerned ; for as the peace and
‘ quiet of the people are disturbed by such tumult-
‘ tuous assemblies, and as it is the business of every
‘ government to preserve the peace and quiet of the
‘ people, therefore wherever any such thing happens,
‘ the government ought to look upon itself as deep-
‘ ly concerned ; and if we consider what mighty
‘ consequences have arisen from very small begin-
‘ nings, if we consider how often governments have
‘ been overturned by tumults which at first seemed
‘ insignificant, which seemed no way intended for
‘ any such end, we must conclude, that not only
‘ our government, but our present establishment,
‘ and even our happy constitution, are concerned in
‘ the riots which have lately happened in several
‘ parts of this kingdom. For this reason, it is the
‘ duty of this house, as being the King’s chief coun-

‘ cil, not to let such riots and tumults pass over un-
‘ observed, but to inquire narrowly into them, in
‘ order to discover their true causes, and to provide
‘ an effectual and a legal remedy. I say, my Lords,
‘ a legal remedy ; for if the law should lose its
‘ force, if it should become necessary upon all
‘ occasions to make use of a military force for
‘ preserving the peace of the kingdom, our con-
‘ stitution would be at an end, we could not
‘ then be said to be under a civil but a military go-
‘ vernment.

‘ Of all the late tumults, the first I shall take no-
‘ tice of are those which have happened in the West
‘ on account of the turnpikes. Why turnpikes
‘ should occasion disturbances in that part of the coun-
‘ try more than in any other, is what I shall not at
‘ present pretend to account for ; but these distur-
‘ bances were such, it seems, that for quelling them
‘ it became necessary to employ a military force,
‘ which I am very much surprized at, considering
‘ the severe law your Lordships passed some time
‘ since against those who should be concerned in
‘ any such. To me it is amazing to see that the civil
‘ power, armed with such a severe law, should not
‘ be able to prevent, as well as to quell any such
‘ tumult, without the assistance of the gentlemen of
‘ our army ; and therefore I am apt to suspect those
‘ tumults proceeded, not from any want of power
‘ in the civil magistrate, but from some other
‘ cause, perhaps from some real injustice or oppres-
‘ sion brought upon poor people by means of those
‘ turnpikes. The people seldom or ever assemble in
‘ any riotous or tumultuous manner unless when they
‘ are oppressed, or at least imagine they are oppressed.
‘ If the people should be mistaken, and imagine
‘ they are oppressed when they are not, it is the
‘ duty of the next magistrate to endeavour first to
‘ correct their mistake by fair means and just rea-
‘ soning. In common humanity he is obliged to
‘ take

‘ take this method, before he has recourse to such
‘ methods as may bring death and destruction upon
‘ a great number of his fellow countrymen, and this
‘ method will generally prevail where they have met
‘ with any real oppression : But when this happens
‘ to be the case, it cannot be expected they will
‘ give ear to their oppressor, nor can the severest
‘ laws, nor the most rigorous execution of those
‘ laws, always prevent the people’s becoming tu-
‘ multuous ; you may shoot them, you may hang
‘ them, but, till the oppression is removed or alle-
‘ viated, they will never be quiet, till the greatest
‘ part of them are destroyed. This is the chief rea-
‘ son and the chief end of all parliamentary inqui-
‘ ries, and this ought to be our chief view in the in-
‘ quiry we are now going upon. If we find any
‘ injustice has been done, if we find any of those
‘ tumults have proceeded from oppression, the only
‘ way to prevent such tumults in time to come, will
‘ be to remove that oppression, and to punish se-
‘ verely every one of those who have been guilty of
‘ it. This is the only human method of prevent-
‘ ing riots or tumults ; for I hope none of your
‘ Lordships are of opinion, that any more severe or
‘ any larger powers ought to be granted by law :
‘ You have already, by a late law, made it death
‘ without benefit of clergy, to be concerned in rio-
‘ tously breaking down any turnpike : You can-
‘ not, by any maxims of government hitherto
‘ pursued in this kingdom, inflict any severer pu-
‘ nishment ; and I hope you will not, under pre-
‘ tence, that the civi’ magistrate is not able to exe-
‘ cute this law, agree to the erecting a barrack at
‘ every turnpike, in order that the civil magistrate
‘ may have it in his power to shoot every man who
‘ presumes to make his escape from that punishment
‘ which is provided for him by law.

‘ As for those tumults which happened in *Spit-*
‘ *tlefields*, and that neighbourhood, the government
‘ was, I think, my Lords, as little concerned in
‘ them, as ever it can be in any such. They pro-
‘ ceeded intirely from an accidental quarrel that
‘ had happened between the *English* and *Irish* la-
‘ bourers ; and they might have been quelled, and
‘ the ringleaders punished, even tho’ we had not
‘ had a regiment of regular troops in the kingdom.
‘ Then with respect to that most ridiculous affair
‘ that happened in *Westminster-hall*, it was, it is true,
‘ a most daring insult both upon the government
‘ and the courts of justice ; but I do not think it
‘ can be called either a riot or a tumult. There
‘ was, I believe, but one person actually concerned
‘ in it, and but very few privy to it ; and as it an-
‘ swered no end, nor could proceed from any sud-
‘ den passion or resentment, I must think none but
‘ mad men could have any hand in it. If we confi-
‘ der the place where, and the person before whom
‘ this ridiculous insult was committed, we must con-
‘ clude that no man in his right senses would have
‘ been guilty of it, or would have so much as
‘ thought of any such impudent and foolish contri-
‘ vance ; for the noble Lord who presided in that
‘ court, has, I am sure, gained the affection and
‘ esteem of every man of sense in the kingdom. He
‘ is a magistrate of great power ; but, my Lords,
‘ great as it is, his authority is equal to his power ;
‘ for power and authority we must always look on as
‘ two things of a very different nature : Power, the
‘ legislature may give, but authority it can give no
‘ man. Authority may be acquired by wisdom, by
‘ prudence, by good conduct, and a virtuous beha-
‘ viour, but it can be granted by no King, by no
‘ Potentate upon earth. A man’s power depends
‘ upon the post or the station he is in, but his au-
‘ thority can depend upon nothing but the charac-
‘ ter he acquires among mankind ; and the more
‘ power

power a fool or a knave is vested with, the more he will be despised, the more generally will he be loaded with hatred and reproach.

The riots and tumults which proceed from smuggling are, my Lords, of an old standing, and of a very different nature; but they are of late become so frequent, and the smugglers are become so numerous and so audacious, that they deserve our closest attention. I am afraid some extraordinary methods must be made use of for suppressing them; but the only way of contriving an effectual method for that purpose will be, to inquire into their causes, and to take such measures as may be proper for removing those causes; for in the body political, as in the body natural, while the cause remains, it is impossible to remove the distemper. Severe laws against smuggling, and the most rigorous, the most arbitrary execution of those laws, we know by the example of a neighbouring kingdom, will never prevail: By such methods we may irritate, we may destroy the subject, and at last perhaps bring on a distemper of a much more dangerous nature; and I am afraid the law passed last year for preventing smuggling, will be found to be a remedy of such a nature. If that law had been passed in that form and shape, in which it was once put by this house, it would not, in my opinion, have been so extraordinary, nor so dangerous; and, I believe it would have been much more effectual. We were told by the best lawyers in *England*, that by that law, as it was first brought in, and afterwards passed, no judge in *England* could know how to direct a jury; and after they had told us so, I must think it was a little odd to turn it out of that shape we had put it into by their advice, and pass it in that very shape, in which they told us it could have no effect.

Upon this occasion, I must observe, my Lords, that even that wicked, that atrocious riot and murder

der committed at *Edinburgh*, proceeded originally from smuggling ; for it was the execution of a smuggler, that occasioned all that disorder and wickedness which afterwards ensued. That tumult and the murder they committed, was, indeed, one of the most extraordinary, that ever happened in any country, and it was, I think, one of the greatest indignities, that ever was put upon an established government. For this reason, it highly deserves our attention, and we ought to look upon it as the more dangerous, and the more to be taken notice of, because it was carried on with a sort of decency and order ; for as *Germanicus* observed of a mutiny among the *Roman* soldiers, it was the more to be dreaded, because it seemed to be attended with no disorder or confusion. I am sorry to hear the government has not yet been able to discover, or at least to apprehend, any of the persons guilty of that barbarous murder ; for where such persons were concerned, many of their names may surely be discovered, and that if they are fled from justice, fly where they will, they ought to be brought back and punished: By our own power, we may bring them back from our plantations, and by our interest, we may be able to bring them back from any foreign country ; for no state in *Europe* will protect such cruel murderers: A foreign state may perhaps, for political reasons, give shelter to the rebels of a neighbouring country, but I cannot think any state will refuse to give up such criminals, when a proper application is made to them for that purpose. The names of the murderers must be all known in the city of *Edinburgh*, at least the names of such as have absconded or fled on that account, and if the citizens refuse to give an account of their names, there may be methods found for compelling them: They may be threatened with removing the courts of justice, as was done in the late *Queen's* time, when the tumult
‘ happened

‘ happened there, which occasioned the execution of
‘ captain *Green*. Upon that occasion her Majesty,
‘ by the advice of her council here, wrote a letter to
‘ the privy council of *Scotland*, ordering them to
‘ signify to the magistrates of *Edinburgh*, that, in case
‘ any such tumult ever happen again, the courts
‘ of justice should all be removed from that city;
‘ from whence I must conclude, that the King has a
‘ power to remove them; for if our King had no
‘ such power, I am sure no such thing would have
‘ been threatned by so wise an administration, as
‘ we had then the happiness to have at the head of
‘ our affairs.

‘ But, my Lords, if the citizens of *Edinburgh*
‘ should obstinately protect or conceal those mur-
‘ derers, they are cases in which a city may forfeit
‘ her charter, and become as it were *in misericordia*
‘ *regis*, with respect to her whole liberties and fran-
‘ chises. The city of *Cambridge* was declared by
‘ Parliament in the reign of *Richard II.* to have for-
‘ feited all her liberties, on account of an insult com-
‘ mitted by the citizens upon the university; in con-
‘ sequence of which, many of their privileges were
‘ taken from them, and granted to the university:
‘ From hence we may see, that a city may forfeit
‘ her privileges, and I do not know but the city of
‘ *Edinburgh* has already done so; for if it should ap-
‘ pear, that the citizens had been generally concern-
‘ ed in that riot and murder, if they should protect
‘ or conceal the murderers, or if the magistrates of
‘ that city had, either thro’ fear or design, connived
‘ at the murder, they might be justly deemed to
‘ have forfeited their charter; and in such a case, I
‘ do not know but it may be thought proper to di-
‘ vest them of some of their privileges, by way of
‘ punishment, and as an example for other cities in
‘ time to come.

‘ For

‘ For this reason, I think, my Lords, we ought
‘ to make a paticular inquiry into that affair, and
‘ into the conduct of the magistrates upon that oc-
‘ casion ; and this inquiry is the more necessary,
‘ because it does not seem, that any full discovery
‘ has yet been made of the authors of that riot.
‘ This I hope may be obtained by virtue of the
‘ power and authority of Parliament ; and when we
‘ have discovered the authors, we may take such
‘ measures as shall be thought most proper for bring-
‘ ing them to condign punishment. As this tumult
‘ at *Edinburgh* was of the most heinous nature, and
‘ as a very high indignity was by those rioters put
‘ upon the crown itself, we ought in my opinion,
‘ to begin with it ; but let us begin where we will,
‘ it is incumbent upon us to make some inquiry into
‘ that and the other riots which have lately happen-
‘ ed ; for after his Majesty has in his speech ex-
‘ pressly mentioned and complained of those riots
‘ and tumults, it would look very odd in this house
‘ to take no notice of them, nor make any attempt
‘ for punishing the authors of those that are passed,
‘ as well as endeavouring to prevent any such for
‘ the future. Such a neglect would show a very
‘ great disrespect and a disregard for the honour and
‘ interest of our Sovereign, which I am sure every
‘ one of your Lordships will endeavour to avoid,
‘ as much as I can. I shall not at present take upon
‘ me to make you any motion, because I think it
‘ will come better from those who have the honour
‘ to be employed in the administration ; and I hope
‘ some of them will stand up and move for some
‘ sort of iniquity into that affair, or make some mo-
‘ tion tending to that purpose.

‘ For my own part, my Lords, in taking notice
‘ of the affair in the manner I have already done, I
‘ have done my duty as a Lord of this house ; and
‘ if nothing farther should be done, I shall from what
‘ I have said, have at least this advantage, that if I
‘ should

‘ should find myself obliged to oppose any methods
‘ that may hereafter be proposed, for preventing
‘ such riots in time to come, which may very pro-
‘ bably be the case, I hope it will not be thrown in
‘ my teeth, that I am a favourer and an encourager
‘ of such riots; for, from what I have now said, the
‘ contrary will appear: It will appear, I believe,
‘ that I am as great an enemy to riots as any man:
‘ I am sorry to see them so frequent as they are; but
‘ I shall never be for sacrificing the liberties of the
‘ people, in order to prevent their engaging in any
‘ riotous proceedings; because I am sure it may be
‘ done by a much more gentle and less expensive
‘ method. A wise and a prudent conduct, and a
‘ constant pursuit of upright and just measures, will
‘ establish the authority as well as the power of the
‘ government; and where authority is joined with
‘ power, the people will never be tumultuous;
‘ but I must observe, and I do it without a design
‘ of offending any person, that ever since I came
‘ into the world, I never saw an administration that
‘ had, in my opinion, so much power or so little au-
‘ thority. I hope some methods will be taken for
‘ establishing among the people in general that res-
‘ pect and esteem, which they ought to have for
‘ their governors, and with every administration
‘ ought to endeavour, as much as possible, to acquire:
‘ I hope proper methods will be taken for restoring
‘ to the laws of this kingdom their ancient autho-
‘ rity; for if that is not done, if the Lord Chief
‘ Justice’s warrant is not of itself of so much autho-
‘ rity, as that it might be executed by his tipstaff in
‘ any county of *England*, without any other assistance
‘ than what is provided by the law, it cannot be
‘ said that we are governed by law, or by the civil
‘ magistrate: If regular troops should once become
‘ necessary for executing the laws upon every occa-
‘ sion, it could not then be said, that we were go-
‘ verned by the civil power, but by the military
‘ sword,

‘ sword, which is a sort of government I am sure
 ‘ none of your Lordships would desire ever to see
 ‘ established in this kingdom.’

The Duke of *Newcastle* spoke next, and after him
 the Lord *Hardwick* in substance as follows, *viz.*

Lord *Hard-*
wick's
speech

‘ My Lords, I agree with the noble Lord, that
 ‘ it is both proper and necessary for this house to
 ‘ take some notice of the many riots and tumults
 ‘ that have lately happened in this kingdom. In
 ‘ duty to our country, we are obliged to inquire into
 ‘ their original causes, and to contrive, if possible,
 ‘ some effectual means for preventing the like in
 ‘ time to come ; and as his Majesty has been so good
 ‘ as to mention them in his speech to his Parliament,
 ‘ we are from thence bound in duty to our Sove-
 ‘ reign, to take notice of what has been so strongly
 ‘ recommended by him ; therefore I make no doubt
 ‘ but a motion would have been made for that pur-
 ‘ pose by some of those concerned in the administra-
 ‘ tion, if they had not been prevented by the noble
 ‘ Lord who spoke first ; and as his Lordship was
 ‘ pleased to move for our going into this committee
 ‘ so very early in the session, I am sure he cannot
 ‘ complain, that the affair was either neglected or
 ‘ too long postponed, by those whose proper busi-
 ‘ ness it was to take notice of it. That some sort
 ‘ of inquiry ought to be made into those riots, I
 ‘ therefore presume to be the opinion of every Lord
 ‘ in this house ; but as they have been of late not
 ‘ only very frequent, but so general, that they have
 ‘ in some manner spread over the whole kingdom,
 ‘ I must think the inquiry ought to be as general as
 ‘ the grievance complained of is general ; for surely
 ‘ whatever remedy may be proposed, whatever me-
 ‘ thod may be contrived, for preventing such riots
 ‘ in time to come, that remedy, or that method
 ‘ must be general, and therefore the inquiry ought
 ‘ to

‘ to be general, A particular inquiry into the
‘ causes of any one riot, can never point out to us
‘ the causes of any other, nor can it communicate
‘ to us any knowledge or information, which can be
‘ of use to us in contriving a general regulation.
‘ Besides, a particular inquiry into every one of the
‘ riots that has lately happened, would take up so
‘ much time, that it would be impossible for this house
‘ to go through it in one session, were the session to
‘ continue from one end of the year to the other ;
‘ and as none but persons of the lowest rank had
‘ been concerned in any one riot that has happened,
‘ it is below the dignity of Parliament, to inquire
‘ particularly into them. For these reasons, I think
‘ a general inquiry is the most proper, and indeed
‘ the only one we can go through with ; and if the
‘ noble Lord will be pleased to move for any such
‘ inquiry, as I seconded his motion for our going
‘ into this Committee, I shall likewise very readily
‘ second his motion for that inquiry.

‘ As for the real causes of the several tumults that
‘ have happened, they will best appear when we come
‘ to examine into them ; but, my Lords, I am al-
‘ ready very apt to believe that all the tumults that
‘ have lately happened, proceed from one and the
‘ same cause ; I believe they proceed from a want
‘ of power in the civil magistrate to prevent or pu-
‘ nish, and a too great liberty in others to mislead
‘ the people, and to stir them up to riot and disorder.
‘ The people, it is true, seldom grow mutinous, but
‘ when they are, or think they are oppressed ; but
‘ as the people are always jealous of those in power,
‘ and mighty apt to believe every piece of scandal
‘ or reproach that is thrown upon them, it is very
‘ easy for those who are prompted by their malice
‘ or revenge, to make the people believe they are
‘ oppressed, when there is not the least ground for
‘ any such insinuation ; and while the civil magis-
‘ trate has not a sufficient power to put a stop to
‘ such

‘ such insinuations, or to punish the fomenters of
‘ sedition, it may be impossible to prevent riots, es-
‘ pecially, if the people should imagine, or be made
‘ to believe, that he had not a power to punish them
‘ for any such riot. This I take to be the princi-
‘ pal cause of all our late tumults, this I believe will
‘ plainly appear upon a general inquiry, and when
‘ it does appear, it will be easy for the legislature to
‘ supply that defect in the power of the civil ma-
‘ gistrate, and to restrain that liberty, which the
‘ fowers of sedition have lately made so great and
‘ so wicked a use of.

‘ Whatever general pretences of oppression have
‘ been made by those who have private ends to
‘ serve by doing so, I have never yet heard of any
‘ particular man, who could with justice complain
‘ of his being oppressed; nor can it be so much as
‘ alledged, I believe, that any particular oppression
‘ gave occasion to any one of the riots that have
‘ happened. Those tumults in the *West*, were oc-
‘ casioned by the setting up of turnpikes, at places
‘ where all the gentlemen in the country, where the
‘ legislature itself, thought they were necessary; but
‘ no turnpike can be set up, nor any public regula-
‘ tion made, which will not be inconsistent with the
‘ private interest of some persons, and if such per-
‘ sons think they may, they certainly will destroy
‘ that which is inconsistent with their private interest.
‘ — The riots in *Spittlefields* were so far from pro-
‘ ceeding from oppression in any magistrate, that
‘ they proceeded from that which often occasions
‘ oppression, I mean the unlawful and unjust com-
‘ bination of journeymen and labourers, to keep up
‘ or inhance their wages. — The atrocious riot and
‘ cruel murder in the city of *Edinburgh*, proceeded
‘ from the crown’s reprieving a man, upon a repre-
‘ sentation signed by a great number of noblemen
‘ and gentlemen, that the man was unjustly con-
‘ demned, or at least that the sentence was too ri-
‘ gorous;

‘gorous ; and this reprieve was only for a few
‘weeks, that the crown might have time to inquire
‘narrowly into the case, and to pardon or punish,
‘according as the circumstances should appear.—
‘Then as to that affair in *Westminster-hall*, I am
‘sorry, my Lords, to hear it so slightly passed over ;
‘your Lordships may call it a riot, tumult, insult,
‘or what you please ; but it was certainly one of
‘the most audacious affronts that was ever offered
‘to an established government ; and could not, I
‘am sure, proceed from any oppression, unless the
‘acts of the whole legislative power of the king-
‘dom are to be called oppression. The other riots
‘seemed to point only at private men ; but that
‘riot or insult, was levelled directly against the go-
‘vernment, nay, not only against the government,
‘but against our present happy establishment. I do
‘not mean, my Lords, the powder or rockets then
‘blown up ; for I do not believe the persons guilty,
‘call them mad-men, or what you will, had a de-
‘sign to blow up the hall, or to hurt any person
‘that was in it ; but I mean the scandalous and se-
‘ditionous libels spread about in the hall by explosion,
‘and afterwards dispersed through every part of this
‘great city. Those libels not only reflected in the
‘most scandalous manner upon several acts of
‘Parliament, but by insinuation denied his Majes-
‘ty’s right to the crown, and in some manner, as-
‘serted the right of the Pretender. What might
‘have been the aim of the authors of this insult,
‘or whether they had any aim, I shall not now in-
‘quire ; but it is certain, if they had not been dis-
‘covered, and as severely punished, as the lenity
‘of our laws, and the mercifulness of our present
‘government would admit of, their insult would at
‘least have answered this end, that it would have
‘given people a mean opinion of our govern-
‘ment, and might have given rise to seditious at-
‘tempts, of a much more dangerous nature.

‘ I am surpris’d, my Lords, to hear it said, that
‘ if the military force should now and then, upon
‘ extraordinary occasions, be called to the assistance
‘ of the civil magistrate, we would, upon that ac-
‘ count, become subject to the military sword, or
‘ that our government would, by such means, be-
‘ come a military government. I hope it will be
‘ allowed, our soldiers are the King’s subjects, as
‘ well as other men ; and it is well known that most
‘ of our magistrates, especially those concerned in
‘ the execution of the law, have a power to call any
‘ of the King’s subjects they can see, to their assist-
‘ ance, for preserving the peace, or for enabling
‘ them to execute any of the King’s writs ; and in
‘ case of any such call, we likewise know, that eve-
‘ ry one of the King’s subjects, so called, is obliged
‘ to obey ; if they do not, they are guilty of a mis-
‘ demeanor, for which they may be indicted, and
‘ for which they may, by express statute, be fined
‘ and imprison’d : Why then may not a civil ma-
‘ gistrate call the soldiers to his assistance as well as
‘ other men ? For my part, I can see no difference
‘ it can make, with respect to our form of govern-
‘ ment, and I am sure, with respect to the end or
‘ intention of calling any man to his assistance, it
‘ will be much better answer’d, and with more safe-
‘ ty to the subject in general, by his calling the
‘ King’s soldiers to his assistance, than by calling
‘ any other of the King’s subjects. Therefore,
‘ while the King’s troops act under the directions
‘ of the civil magistrate, and as his assistants only,
‘ we shall be as much under a civil government as
‘ if we had no such troops ; the only difference is,
‘ that with the few troops we have, the laws may
‘ be put in execution, and smugglers, thieves,
‘ highwaymen, and such like rogues, apprehended
‘ and brought to condign punishment, without
‘ risking the lives of his Majesty’s industrious sub-
‘ jects,

jects, or calling them away from their usual employments.

From what I have said, my Lords, I think it will appear, that we ought not only to have regular troops, but that they ought to be employed by, and at the command of the civil magistrate ; and experience has shewn us, that they often become necessary for preserving the peace of the kingdom, and the lives of innocent subjects. In those tumults which happened in the *West* about turnpikes, it became necessary to employ a military force, in order to preserve the life of a magistrate who was threatened by the mob, for no other reason, but because he had been diligent in putting the laws in execution. In another corner of the same county, a fellow took it into his head to keep possession of another man's estate by violence, and in spite of the laws of the kingdom ; for this purpose he provided himself with several confederates, as wicked and as foolish as himself, and with proper arms for opposing all the power he thought could be sent against him : The sheriff of the county, assisted by the county, went to execute the King's writ against him ; but, instead of submitting, he fired upon them, killed some of the sheriff's assistants, and obliged them to retire. Was it not then proper, was it not necessary to call the King's troops to the assistance of the sheriff ? They were called, and, without the spilling of any more innocent blood, the laws were put in execution, the owner got possession of his estate, and the criminal who dared to oppose the law was hanged. Even but last summer, it was highly probable that great tumults would have been raised against the law, for preventing the retail of spirituous liquors ; for great threatenings had been made, and some had publickly declared they would not give obedience to it ; but by the prudent measures that were taken, and by shewing that the King's troops

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would

' would be employed against those who should dare
 ' to oppose the law, all those threats ended in a
 ' few tricks to evade the law, which I hope will be
 ' soon got the better of, by the care and diligence of
 ' the commissioners of excise. These few exam-
 ' ples shew, that a military force becomes sometimes
 ' absolutely necessary for putting the laws in execu-
 ' tion ; and if it were not for the few regular troops
 ' we have, riots would be more frequent than they
 ' are, and much more dangerous ; as will, I believe,
 ' appear by a general inquiry into the riots that have
 ' lately happened ; therefore I shall heartily agree
 ' in any motion tending to the bringing on of such
 ' an inquiry.'

The Lord *Batburst* spoke next to the following effect, *viz.*

Lord *Ba-*
tburst's
speech.

' My Lords, it must be confessed, that riots and
 ' tumults have of late been not only very frequent,
 ' but very general in this kingdom, and therefore it
 ' may be, I think, justly concluded that there is
 ' some general cause, some general error, which
 ' makes our people so generally uneasy ; but I am
 ' very far from thinking, that general cause pro-
 ' ceeds from any want of power in the civil magi-
 ' strate, or from too great a liberty in the people.
 ' There is no country in the world where there are
 ' severer laws against riots, or where there are great-
 ' er powers given to the civil magistrate for pre-
 ' venting or quelling them. The civil magistrate
 ' has now greater powers, and our laws against riots
 ' are more severe than ever were known to our an-
 ' cestors ; and therefore I am apt to suspect, that
 ' most of our late riots have proceeded from that ge-
 ' neral cause from which almost all tumults proceed,
 ' I mean, from the unjust and oppressive conduct,
 ' or from the supine negligence and indolence of
 ' those who are intrusted with the execution of our
 ' laws.

When

‘ When the people are made uneasy by the op-
‘ pressions of those intrusted with power, or when
‘ wicked and evil disposed persons are allowed to be-
‘ come seditious or licentious by the neglect of the
‘ civil magistrate, the Parliament ought to interpose.
‘ If it does not, tumults must of course ensue, and
‘ those tumults may at last produce most extraordi-
‘ nary events. Let us examine our own history,
‘ and we shall find, most of those tumults or riots
‘ we have any account of, proceeded from the op-
‘ pression of those intrusted with power, and a ne-
‘ glect to remove that oppression, or to punish the
‘ oppressors. The famous insurrection under *Wat*
‘ *Tyler*, we are expressly told by our historians, at
‘ first proceeded from a heavy tax then imposed,
‘ the great powers granted for levying that tax, and
‘ the oppressive use made of those powers by the
‘ tax-gatherers. But, as oppression seldom appears
‘ in one shape only, as a general discontent always
‘ arises from several causes, so at that time the peo-
‘ ple had several reasons for being dissatisfied: They
‘ complained, that their foreign enemies were allow-
‘ ed to ravage and plunder them with impunity,
‘ and that their domestic enemies, the lawyers, ruin-
‘ ed them with vexatious suits and extorsive fees;
‘ and they were not only oppressed by the collectors
‘ of the public revenue, but likewise by the nobili-
‘ ty, and Lords of manors, who, by the great pow-
‘ ers and privileges they enjoyed, kept the people
‘ in a sort of slavery. This last sort of oppression,
‘ indeed, we now seem to be in no danger of; for
‘ our nobility seem to have very little power left in
‘ their hands; but with respect to the other grievan-
‘ ces, we do not know but the people may now have
‘ reason to complain of something like them, and if
‘ they have, those causes of complaint ought to be
‘ inquired into by Parliament, and removed as soon
‘ as possible.

‘ Upon such occasions, my Lords, it is not sufficient to quell the riot, it is not sufficient to punish the rioters, or to make severe laws for punishing of all such for the future; the government, by good luck, got the better of that insurrection under *Wat Tyler*, and of all the other tumults that happened about that time, and great care was taken to punish the rioters with the utmost severity; but no proper care was taken to remove the causes of those riots, or to punish the oppressors of the people. What was the consequence? The discontent of the people continued, and though, by the severity that had been used, they were for some time frightened from being guilty of any new riot or tumult, yet at last they gathered into a regular army, and, under the conduct of the Duke of *Gloucester*, defeated the King’s forces, banished, beheaded, or hanged all his favourites, and among the rest Sir *Robert Tresilian* (who had been one of the most rigorous in prosecuting and punishing the rioters, and who, ’tis said, never wanted reasons to countenance whatever he found was agreeable to the King) was accused of high treason, impeached and condemned by the Parliament, and soon after hanged at *Tyburn*. This appeased the minds of the people for some time, but as that unfortunate King soon returned to his former courses, and disregarded the complaints of the people, riots and tumults continued during his whole reign, and at last paved the way for *Henry IVth*’s ascending the throne.

‘ Now, my Lords, as riots and tumults generally proceed from oppression, or from neglect in the civil magistrate, and as both the oppression and the neglect of the civil magistrate may appear in various shapes, and may be very different in one case from what it is in another, when several riots have happened, at different times, and in different parts of the country, it is impossible to discover
‘ the

the true cause of any one of them by a general inquiry, nor will a particular inquiry into the cause of one discover the true cause of another. I shall not at present tax the magistrates at *Edinburgh*, or those in the *West*, or in any other part of the kingdom, either with oppression or neglect; but if any of them have been guilty of either, can that oppression or neglect be discovered by a general inquiry? Or will an inquiry into the riot at *Edinburgh*, and the conduct of the magistrates there, discover to us, whether any of the magistrates in the *West* of *England*, or in any other part of the kingdom, have been guilty of oppression or neglect? The thing appears, at first sight, impossible, and therefore there is no way of answering the intention of his Majesty's speech, or indeed our own duty as members of this house, but by a particular inquiry into every one of the riots that have happened, or at least into some of the most considerable of them; cost what it will, take up what time it will, it must be gone about, and the sooner we begin, the greater regard we shew both to our King and our country. I cannot really comprehend what is meant by a general inquiry: In my opinion, it can mean nothing but an inquiry in our laws relating to riots, and the fowers of sedition; for if you proceed to inquire into the particular circumstances and facts of all, or any one riot that has happened, your inquiry must become particular; and if you do not inquire into circumstances and facts, if you inquire only into our laws, you cannot discover the original cause of any one riot that has happened.

If your Lordships have a mind to go upon an inquiry into our laws relating to riots, and the fowers of sedition, I shall be far from being against any motion for that purpose; because it will from thence appear, that our laws against riots are al-

ready as severe as they can be made, in a country where no racks or tortures can be admitted ; and it will likewise appear, that our laws against those who stir the people up to sedition, are as severe as they can, or ought to be made in a free country. The general method of stirring the people up to sedition, is by spreading false and seditious libels or reports against their magistrates, and every one knows how easy it is to prosecute the authors of such, and how severely they are punished by the laws of this kingdom. Indeed the method of trial, which is by a jury, and the principal part of the punishment, which is by pillory, make it necessary for our magistrates of all degrees, to court the esteem and affections of the people ; for in case of any general discontent against any one magistrate, a jury will but seldom bring in a verdict in his favour, and when he does recover a verdict, the principal part of the punishment is evaded, by the favour of the mob or populace. I hope, my Lords, we have no such magistrates at present ; at least if we have, I am sure their conduct ought to be inquired into ; and if we have no such magistrates, we cannot suppose that any of our late riots were occasioned by the spreading of false and seditious libels or reports ; because if they had, the authors of such libels or reports would certainly have been prosecuted, and would as certainly have met with condign punishment, by the laws as they now stand ; unless we suppose that some of our magistrates have been deficient in their duty, which is a crime that ought to be punished, or at least censured, but it is a crime that can be discovered only by a particular inquiry into the circumstances of each riot ; it can never be discovered by any general inquiry.

We have not, it is true, my Lords, yet heard that a man of any figure was concerned in any of the riots that have happened ; I hope no such thing
will

‘ will ever appear ; but in such cases we are not to
‘ regard the rank or the quality of the persons con-
‘ cerned. A tumult of the very lowest rank of peo-
‘ ple may, if neglected, become very considerable,
‘ and generally produces the most fatal and the most
‘ cruel consequences. The tumult under *Wat Tyler*,
‘ consisted of persons of the lowest rank only, and
‘ was at first inconsiderable, yet in a few days he got
‘ himself at the head of near 100,000 men, seized
‘ upon, and ransacked the city of *London*, obliged
‘ the Tower to surrender, tho’ it was then garrison-
‘ ed with 1200 men, burnt many palaces and fine
‘ houses, put to death many noblemen and gen-
‘ tlemen, and would probably have put the King
‘ himself to death, and intirely overturn our go-
‘ vernment, if a very remarkable sort of providence
‘ had not intervened. Do not we know that many
‘ governments have been overturned, even the go-
‘ vernment of the great *Turkish* Empire was but
‘ lately overturned by a tumult, in which none but
‘ the very lowest sort of people were at first concern-
‘ ed. The chief end of a Parliamentary inquiry is
‘ not to discover, or to punish the persons concern-
‘ ed in any tumult ; it is the conduct of the magi-
‘ strates where such tumults have happened, that we
‘ are principally to inquire into ; and if upon such
‘ inquiry it should appear, that the tumult was oc-
‘ casioned by any oppressive or imprudent behaviour,
‘ or by any neglect or cowardice in them, we ought
‘ to remove, to censure, or to punish such magi-
‘ strates, according to the heinousness of their crime.
‘ Such an inquiry, and such an issue of an inquiry,
‘ will satisfy the people, it will remove the cause of
‘ tumults, and consequently will prevent them for
‘ the future ; whereas, if we employ ourselves sole-
‘ ly in discovering and punishing the rioters, we do
‘ not remove but increase the cause of tumults ; we
‘ shall render the people more discontented than they
‘ were ; the severity of the punishment may fear up
‘ the

‘ the wound for a time, but, my Lords, it will not
‘ be healed, it will fester, and endanger the total
‘ dissolution of the political body.

‘ My Lords, whatever the opinion of other
‘ Lords may be, I shall always be of opinion, that
‘ there is a very great difference between a magi-
‘ strate’s being assisted in the execution of his office
‘ by the posse of the county, and his being assisted
‘ by a body of regular Troops. In the first case,
‘ the magistrate is assisted by the people only, and
‘ the people, notwithstanding the obligation they are
‘ by law under to answer his call, will never assist
‘ him in oppressing the people. If they refuse, they
‘ know they must be tried by their country, and
‘ they know their country will never condemn
‘ them for refusing to assist in oppressing their
‘ country. But with respect to our army, as it is
‘ now regulated by the Mutiny bill, the case is
‘ quite different, they are now really a body
‘ quite distinct from the people; when they are
‘ called to the assistance of the civil magistrate,
‘ they are not called as the King’s subjects, but as
‘ the King’s soldiers, and as they are quite distinct
‘ from the people, they may very probably assist in
‘ oppressing the people: Nay, my Lords, they must
‘ assist; if they refuse, if they disobey their orders,
‘ they are not to be tried by their country, they are
‘ to be tried by the martial law, and their punish-
‘ ment, instead of fine and imprisonment, is imme-
‘ diate death; they may that instant be tried and
‘ condemned by a court-martial, and shot to death
‘ upon the very spot where they dare to disobey
‘ their orders; for this reason they always will be,
‘ and always have been assisting in destroying the li-
‘ berties, and oppressing the people of every coun-
‘ try, where their superiors have thought fit to em-
‘ ploy them for such wicked purposes.

‘ From hence your Lordships must see the diffe-
‘ rence between a civil magistrate’s being assisted by
‘ the

‘ the posse of the county, and his having a body of
‘ regular troops always at command. In the first case,
‘ he must in all his measures pursue justice and equity,
‘ he must even study the humours and inclinations,
‘ and court the affections of the people ; because, up-
‘ on them only he can depend for the execution of
‘ his orders as a magistrate, and even for his safety
‘ and protection as a private man ; but when a civil
‘ magistrate knows that he has a large body of re-
‘ gular well-disciplined troops at command, he de-
‘ spises both the inclinations and the interest of the
‘ people ; he considers nothing but the inclinations
‘ and the interest of the soldiers, and as those sol-
‘ diers are quite distinct from the people, as they
‘ do not feel the oppressions of the people, and are
‘ subject to such arbitrary laws and severe punish-
‘ ments, they will generally assist and protect him in
‘ the most unjust and oppressive measures ; nay, as
‘ the interests of the soldiers are always distinct
‘ from, and sometimes opposite to the interests of
‘ the people, a civil magistrate, not otherwise op-
‘ pressive in his nature, is sometimes obliged to op-
‘ press the people in order to humour and please the
‘ army.

‘ To imagine, my Lords, that we shall always
‘ be under a civil government as long as our army is
‘ under the direction of the civil magistrate, is to
‘ me something surprizing. In *France*, in *Spain*,
‘ and many otheir countries, which have long been
‘ under an arbitrary and military government, they
‘ have the outward appearance of a civil govern-
‘ ment ; even in *Turkey*, they have laws, they have
‘ lawyers, they have civil magistrates, and, in all
‘ cases of a domestic nature, their armies are un-
‘ der the directions of their civil magistrates ; but,
‘ my Lords, we know, that in all such countries
‘ the law, the lawyers, and the civil magistrates,
‘ speak as they are commanded by those who have
‘ the command of the army. Their lawyers have
‘ often

‘ often occasion to make the same speech one of our
‘ judges made to *Michael Pole*, Earl of *Suffolk* in
‘ *Richard* the IId’s reign, who, upon signing it as
‘ his opinion, that, *The King was above the laws*,
‘ said, — *If I had not done this, my Lord, I should*
‘ *have been killed by you, and now I have done it, I*
‘ *well deserve to be hanged for treason against the No-*
‘ *bles of the land.*

‘ I am afraid, my Lords, some of our civil ma-
‘ gistrates, at least those of an inferior degree, be-
‘ gin to put too great confidence in their having a
‘ military force at their command, and therefore
‘ make a little too free with the lower sort of peo-
‘ ple, or at least do not take proper measures for re-
‘ conciling the people, in a good natur’d and peace-
‘ able manner, to the laws of their country: A
‘ man who has power is but too seldom at the pains
‘ to use argument. It has been granted, the people
‘ rarely become tumultuous but when they are op-
‘ pressed, or are made believe they are oppressed; if
‘ any man has either by writing or speaking, di-
‘ rectly or ironically, endeavoured to make them
‘ believe so, it is the business of our magistrates to
‘ inform them better, and to punish the defamers of
‘ our government; for such criminals may be pu-
‘ nished as the laws now stand, unless we suppose
‘ the people generally disaffected, which God for-
‘ bid; and if any magistrate has been oppressive,
‘ or deficient in his duty, it is the duty of this house
‘ to inquire into it, and to punish the offender; but
‘ this can be done only by a particular inquiry. The
‘ law mentioned by the noble Duke, I mean the
‘ law against gin, is a strong argument for such an
‘ inquiry. I believe every one of your Lordships
‘ was afraid that law could not be carried into exe-
‘ cution without occasioning riots and tumults; I
‘ wish that pernicious liquor may not still get the
‘ better of the legislature; but the quiet manner in
‘ which the law has been hitherto carried into exe-
‘ cution

‘ cution, shews how willing the people are to sub-
 ‘ mit to any reasonable regulation, if proper me-
 ‘ thods be taken to make them understand it, and
 ‘ to prevent the designs of those who may be by na-
 ‘ ture or interest led to oppose it in a seditious man-
 ‘ ner. The good success of the measures taken with
 ‘ respect to the enforcing that law, is, in my opi-
 ‘ nion, a strong proof of some crime or neglect in
 ‘ the magistrates at every one of those places where
 ‘ any tumult has happened, and therefore I shall
 ‘ be for enquiring in a particular manner into
 ‘ the circumstances and causes of every one of those
 ‘ tumults.’

The Earl of *Scarborough* spoke next, pretty much
 to the same purport, with what was said by the
 Duke of *Newcastle* and the Lord *Hardwicke*; and
 then the Lord *Carteret* stood up again, and spoke in
 substance thus.

‘ My Lords, since your Lordships have done me
 ‘ the honour to take so much notice of what I
 ‘ before hinted to you, and since every Lord who
 ‘ has spoke upon the subject seems to be of opinion,
 ‘ that some sort of inquiry ought to be made into
 ‘ the tumults or riots that have happened, I will
 ‘ now take upon me to make some motions for that
 ‘ purpose, because I find no other Lord has yet at-
 ‘ tempted it.

The Lord
Carteret's
 speech.

‘ For my part, my Lords, I do not think it possible
 ‘ to obtain any satisfaction for ourselves, or to give
 ‘ any satisfaction to the nation, by a general inquiry;
 ‘ and if we make any particular inquiry, I think we
 ‘ ought to begin with that riot which was in itself
 ‘ the most wicked and atrocious. That the riot at *E-*
 ‘ *dinburgh* was so, I believe every one of your Lord-
 ‘ ships will agree, and therefore the first motion I
 ‘ shall make, is, That those who were the magi-
 ‘ strates of *Edinburgh* at the time that riot happened;
 ‘ at

‘ at the time, I mean, when *Porteous* was murdered
 ‘ by the mob, may be ordered to attend this house.
 ‘ I do not know what sort of magistrates that city
 ‘ has, or by what names they are called, but I hope
 ‘ some of the Lords of that country will assist me
 ‘ in forming my motion in proper terms. If
 ‘ your Lordships agree to that motion, I shall then
 ‘ make you several other motions, which I take to
 ‘ be necessary preliminaries for an inquiry into that
 ‘ affair.

‘ I shall not take upon me at present so much as to
 ‘ guess or insinuate where the whole or any part of
 ‘ the guilt lay upon that occasion; but I am per-
 ‘ suaded it will appear not to have lain wholly in
 ‘ persons of the meanest rank; however, lie where
 ‘ it will, if your Lordships agree to inquire into it,
 ‘ I am sure you will go through the inquiry with that
 ‘ dignity, wisdom, and impartiality, which have
 ‘ always attended, and have added weight to all
 ‘ the proceedings of this house. I am sure no guilt-
 ‘ ty person, let his rank or quality be what it will,
 ‘ can escape your Lordship’s penetration, or avoid
 ‘ your justice; and therefore from such an inquiry I
 ‘ propose great satisfaction to myself, and I hope a
 ‘ sufficient satisfaction to the whole nation.’

After this, the Earl of *May* spoke to the following
 effect, viz.

The Earl of
May’s speech

‘ My Lords, as I am of opinion that the late tu-
 ‘ mults ought to be inquired into, and some measures
 ‘ taken for preventing the like in time to come, I
 ‘ am so far from being against a particular inquiry
 ‘ into that atrocious riot and cruel murder that hap-
 ‘ pened at *Edinburgh*, that I shall not only second
 ‘ the noble Lord in all the motions proper for that
 ‘ purpose, but I shall give him all the assistance I
 ‘ can towards putting those motions in the most pro-
 ‘ per terms. With respect to the magistrates of the
 ‘ city

city of *Edinburgh*, I shall beg leave to inform your Lordships, that that city, like the rest of the cities in *Scotland*, is governed by its magistrates and town council, who, together, make such laws and regulations as they think proper for the good government of the city; but the executive part of their government consists intirely in the magistracy, which is composed of a provost, four bailiffs, a treasurer, and a dean of *Guild*. As for the treasurer, his business consists chiefly in managing the estate and treasure of the city, and the Dean of *Guild*'s chief business is in looking after the buildings, neither of whom could, by means of their office, have any thing to do with the mob; and therefore the only proper persons for your Lordships to call before you, are those who were the provost and four bailiffs of that city, at the time the late tumult happened there.

That the late tumult at *Edinburgh* was a most daring insult upon government, and that the murder committed at that time was one of the most flagitious, and attended with the most aggravating circumstances, I shall, my lords, most readily admit; yet I am surprized to hear the least insinuation made, as if the city's charter ought to be taken from them on that account. It is true, cities or corporations may, perhaps, by the severity of law be made to forfeit their charter, when they have been guilty of any very heinous and very extraordinary misbehaviour; and in former reigns we know that many *Quo Warranto*'s have been issued for that purpose: But the taking advantage of such forfeitures, and stretching the law to its utmost rigor upon such occasions, has always been deemed oppressive, and has never, or but very seldom, been done but by those who were pursuing arbitrary measures; for it is really, in some respect, punishing the innocent for the sake of the guilty. For this reason, I hope no such thing will ever be attempted.

‘ tempted in his present Majesty’s reign ; but if such
‘ a thing were to be attempted, there is not the least
‘ foundation for attempting it with respect to the ci-
‘ ty of *Edinburgh*, on account of the late tumult
‘ there ; for that tumult was far from being the act
‘ of the city or citizens : On the contrary, at least
‘ so far as yet appears, there were none concerned in
‘ it, but a few of the very scum of the people : It
‘ does not yet appear that there was so much as one
‘ freeman of the city concerned in it ; and therefore
‘ it would be extremely hard to punish the whole
‘ inhabitants of that populous city with the loss of all
‘ their privileges as citizens, on account of any ir-
‘ regularity in which they cannot be said to have had
‘ the least concern.

‘ The present case of the city of *Edinburgh* is vast-
‘ ly different from the case of the city of *Cambridge*
‘ in the reign of *Richard II.* The city of *Cam-*
‘ *bridge*, my Lords, had in a manner joined in those
‘ insurrections which happened about the same time
‘ with that insurrection headed by *Wat Tyler* ; the
‘ whole citizens assembled, not in a tumultuous, but
‘ in a hostile rebellious manner, with their Mayor
‘ and other Magistrates at their head, went and af-
‘ faulted the university, broke up their treasury,
‘ burnt their charters and many valuable records, and
‘ compelled the Chancellor and members of the uni-
‘ versity, in a solemn manner, under their com-
‘ mon seal, to release the Mayor and Burgessees
‘ of *Cambridge*, all liberties and privileges enjoyed
‘ by that university. For this hostile and rebellious
‘ manner of proceeding, the Parliament declared,
‘ they had forfeited their charter, and many of those
‘ liberties and privileges which were taken from them
‘ were granted by the King to the university ; so
‘ that even this forfeiture was but a sort of *Lex Talio-*
‘ *nis* ; but there is not the least resemblance between
‘ this case and the present case of the city or citizens
‘ of *Edinburgh* ; and if there were, I hope none, or
‘ very

‘ very few, of the proceedings of that reign will be
‘ allowed to be a good precedent in this; for the
‘ very same King, in a few years after, stripped the
‘ city of *London* of all her privileges, and took away
‘ her charter, on account of a mob that happened
‘ in the city at that time.

‘ The removing of the courts of justice, is, I be-
‘ lieve, my Lords, a sort of punishment his Majesty
‘ has in his power to inflict; but it would be ex-
‘ tremely inconvenient both to the judges and suitors
‘ who are often obliged to have recourse to the pub-
‘ lic records of the kingdom, which are all lodged
‘ at *Edinburgh*, and which, I believe, cannot be
‘ removed, without an act of Parliament, nor even
‘ in that case, without a very great expence. But
‘ suppose the courts of justice could be easily remo-
‘ ved, the punishment would be of the same nature
‘ with the other; it would be a punishing of the
‘ innocent for the sake of the guilty, and it would
‘ be a punishment I remember no precedent for, but
‘ in the reign I have mentioned, in the reign of
‘ *Richard II.* who, upon his quarrel with the city
‘ of *London*, removed the courts of justice to *York*;
‘ which was one of the steps to that arbitrary power
‘ he afterwards assumed.

‘ I shall not, my Lords, take upon me to affirm
‘ that the Magistrates of *Edinburgh* were intirely in-
‘ nocent; whether they were guilty or innocent will
‘ best appear from your Lordships inquiry; but
‘ granting that it should appear that they were negli-
‘ gent of their duty, or even that they connived with
‘ the mob, and in a manner consented to the murder
‘ of *Porteous*, can that be a reason for punishing the
‘ city, or for stripping the innocent citizens of their
‘ privileges? As that tumult and murder was a high
‘ indignity put upon the crown, it is hardly possible
‘ to suppose it was the act of the citizens in general.
‘ That city has always been remarkable for their at-
‘ tachment to our present happy establishment, and

‘ has, upon all occasions, testified their respect and
‘ their affection for the present royal family. In
‘ the year 1715, they shewed it in a very signal
‘ manner; they appeared with great unanimity in
‘ arms, and were ready to have gone upon the most
‘ desperate attempts, in defence of our present esta-
‘ blishment; and it must be admitted by every one,
‘ who knows the circumstances of affairs in that part
‘ of the kingdom at that time, that the loyal beha-
‘ viour of the city of *Edinburgh* contributed greatly
‘ to repress the unnatural rebellion which had then
‘ broke out, and had come to a very extraordinary
‘ height. For which I should think, my Lords,
‘ that even suppose a great number of the citizens
‘ should appear to have been misled, and to have
‘ been concerned in the late tumult, yet the former
‘ behaviour of the city, its merit upon former oc-
‘ casions, ought to be admitted as a sufficient plea
‘ against our treating the city, at least, with the ut-
‘ most severity either law or justice will admit of.

‘ Whatever neglect, whatever crime the magi-
‘ strates of *Edinburgh* may have been guilty of, I
‘ believe, when your Lordships come to inquire
‘ into the causes of that tumult at *Edinburgh*, you
‘ will find, that the chief cause of that and every
‘ other tumult that has happened in the kingdom,
‘ proceeds neither from any neglect, nor any oppres-
‘ sion in the civil magistrate, but from a restless dis-
‘ affected party, who are continually fomenting such
‘ tumults, in order to make their own use of them
‘ at foreign courts, and to represent the people of
‘ this island as generally disaffected to the present
‘ government. This, ’tis well known, is the unin-
‘ terrupted endeavour of that party, and their
‘ success in this wicked design, is, in a great
‘ measure, owing to the many seditious libels
‘ and pamphlets spread about daily, and dispers-
‘ ed with great industry through every part of
‘ the united kingdom. In these libels and pam-
‘ phlets,

‘ phlets, the authors, under the specious pretence of
 ‘ liberty, and an unfeigned regard for the rights of
 ‘ the people, take occasion to persuade the people
 ‘ that their liberties are in danger, that they are op-
 ‘ pressed, and that they ought to throw off all re-
 ‘ spect for, or obedience to the laws of their country;
 ‘ but, my Lords, the true design, the secret aim of
 ‘ such writings and such authors may be easily per-
 ‘ ceived: They know the transition is easy, from
 ‘ no government at all, to the government they wish
 ‘ to see established; and that the less respect the
 ‘ people have for the present government, the more
 ‘ easy it will be to prevail with them to submit to
 ‘ the other. This, I say, my Lords, is easily per-
 ‘ ceived by men of knowledge and sense, but it is
 ‘ not so easily seen through by the generality of
 ‘ mankind, which is the reason that so many of them
 ‘ are caught in the snare; and as I am convinced
 ‘ that this will, upon inquiry, appear to be the chief
 ‘ reason of all our riots and tumults, therefore I shall
 ‘ most readily join with the noble Lord, in any mo-
 ‘ tions for inquiring into all or any one of them.’

The Lord *Carteret* then made the following mo-
 tions, which were all agreed to in the committee,
 and being the same day reported, were agreed to by
 the house, *viz.*

‘ To resolve that it is the opinion of this com-
 ‘ mittee,

‘ 1st, That the provost and four bailiffs of the city
 ‘ of *Edinburgh*, in the year 1736, be ordered to at-
 ‘ tend this house.

‘ 2^{dly}, That the person commanding the city
 ‘ guard, at that time of the riot in which Captain
 ‘ *Porteous* was murdered, be ordered to attend this
 ‘ house.

‘ 3dly, That the officer, commanding in chief
 ‘ his Majesty’s forces in that part of *Great Britain*
 ‘ called *Scotland*, and residing there at the time of
 ‘ the said riot, be ordered to attend this house.

‘ 4thly, That an authentic copy of the trial of
 ‘ Captain *Porteous*, and all the proceedings relating
 ‘ thereunto, be laid before this house.

‘ 5thly, That an humble address be presented to
 ‘ his Majesty, that he will be graciously pleased to
 ‘ give order, that the accounts transmitted hither of
 ‘ the murder of Capt. *Porteous*, and what passed
 ‘ thereupon, together with the orders and directions
 ‘ sent from hence relating thereunto ; as likewise a
 ‘ copy of the reprieve of the said captain, granted
 ‘ by her Majesty, as guardian of the kingdom, be
 ‘ laid before this house.

‘ 6thly, That the attendance of the several per-
 ‘ sons afore-mentioned be on this day month.’

As this affair took up a considerable part of the time of both houses, and was not finished till the very end of the session ; we have collected the proceedings and debates upon it together, that the reader might not be interrupted with the other debates that intervened.

Proceedings
 in the house
 of Lords in
 relation to
 the murder
 of captain
Porteous.

Thursday, March 3, the Duke of *Newcastle* presented to the house, according to the fourth and fifth resolutions, an authentic copy of the trial of Captain *Porteous*, and all the proceedings relating thereunto ; and also the accounts transmitted hither of the murder of Capt. *Porteous*, and what passed thereupon ; together with the orders and directions sent from hence relating thereunto ; as likewise a copy of the reprieve of the said captain, granted by her Majesty as guardian of the kingdom. And on *Thursday, March 10*, the

the several persons attended according to order, and were called to the bar and sworn: After which the house resolved itself into a committee, to consider of the affair, and agreed to fifteen several questions or interrogatories, upon which the Lord Provost and four bailiffs of the city of *Edinburgh* in the year 1736, were examined. The same day a message was sent to the house of Commons, desiring they would give leave to lieutenant general *Wade*, and *Patrick Lindsay*, Esq; members of that house, to attend to be examined in relation to the murder of *Porteous*; and major *Poole*, whose name had been mentioned in the aforesaid examination, was ordered to attend on *Wednesday* then next.

On the 16th, *Thomas Young*, treasurer of the city of *Edinburgh* in the year 1736, whose name had likewise been mentioned in the aforesaid examination, was ordered to attend if in town; and on the 17th, the house having, again, resolved itself into the said committee, agreed to eleven questions or interrogatories, upon which captain *Lynd*, who was captain of the city guard of *Edinburgh*, the night *Porteous* was murdered, was examined; after which the Lord Provost was again called in, and examined as to any, and what endeavours had been used by him, to discover those concerned in the murder of *Porteous*; and as to some other matters, which had occurred after that riot; and the above-mentioned *Patrick Lindsay*, Esq; having had leave from the house of Commons, did attend, and was examined as to his knowledge, of what happened relating to this affair; as was also general *Moyle*, commander in chief of his Majesty's forces in *Scotland*, at the time this affair happened.

On the 18th, colonel *Dureure*, lieutenant colonel to the regiment of foot commanded by lieutenant general *Whetnam*, was ordered to attend, his name having been mentioned in the former examinations; and the same day a motion was made by Lord *Lovell*,

‘ That the Lord Justice Clerk of *Scotland* might be
 ‘ ordered to attend.’ The reason of this motion was
 founded upon a letter of lieutenant general *Wade*’s,
 then on their table, from which it appeared, ‘ That
 ‘ it would be necessary for them to examine the
 ‘ Lord Justice Clerk, and as the session would not
 ‘ probably last long, they ought to send for him as
 ‘ soon as possible; because the sooner they sent for
 ‘ him, the sooner they would have him:’ To which
 it was added, ‘ That it appeared likewise, from
 ‘ the trial of *Porteous*, then on their table, that it
 ‘ would be necessary to examine the Lord Justice
 ‘ Clerk, who was the chief and presiding judge upon
 ‘ that trial.’

To this it was answered, ‘ That the ordering of
 ‘ any particular gentleman to attend, would be a
 ‘ sort of impeachment upon his character, which
 ‘ was a slur they ought not to throw upon any gen-
 ‘ tleman, without some appearance of guilt; for,
 ‘ as they would scorn to skreen any man, against
 ‘ whom there appeared the least suspicion, so they
 ‘ would scorn to attack any man in an indirect
 ‘ manner. That, as to the letter upon their table,
 ‘ they could not properly make it a foundation for
 ‘ any order, till they had examined general *Wade*
 ‘ himself, as to the contents; and, as to the trial of
 ‘ *Porteous*, the Lord Justice Clerk was but one, of
 ‘ four or five judges then upon the bench, and ought
 ‘ not therefore to be made to answer singly for any
 ‘ part of that trial.’

The motion was supported by the Duke of *Moun-
 tagu*, Lord *Carteret*, and Lord *Bathurst*; and op-
 posed by the Earl of *Ilay*, the Lord *Hervey*, the
 Duke of *Newcastle*, the Duke of *Argyle*, and the
 Earl of *Warwick*; and the Duke of *Newcastle* hav-
 ing moved to adjourn, the question was put, and
 carried for adjourning.

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Though

Though the other motion therefore was not then agreed to, yet as the Lord Justice Clerk was the chief officer of state in *Scotland*, at the time of *Porteous's* murder, and consequently the chief person entrusted with the civil government of the country; and as it appeared by all the examinations, that he was neither in town when that mob happened, nor came to town when he was apprized of the tumult, tho' very near to it, it is probable this motion would have been revived, and agreed to as soon as general *Wade* should be examined. However, on *Monday* following the Duke of *Newcastle* moved, ' That the

Scotch Judges
sent for.

' afore said Lord Justice Clerk, together with the
' Lord *Dun* and the Lord *Royston*, the two senior
' judges of that court, should be ordered to attend;' which motion was agreed to, and they were ordered to attend accordingly on *April 21*.

Lieutenant general *Wade*, and several others, were afterwards examined, and the committee having considered their examinations, came to several resolutions, which were reported and agreed to on *Friday, April 13*; whereupon *Alexander Wilson, Esq*; the afore said Lord Provost of *Edinburgh*, was ordered to be taken into the custody of the gentleman usher of the black-rod; (but upon *April 19*, following, he was admitted to bail, in order to prepare himself for being heard by his counsel, as after-mentioned.) And the following bill was ordered to be brought in, *To disable the said Alexander Wilson, Esq*; from taking, holding, or enjoying any office or place of magistracy in the city of *Edinburgh*, or elsewhere in Great-Britain; and for imprisoning the said Alexander Wilson; and for abolishing the guard kept up in the said city, commonly called The Town Guard; and for taking away the gates of the Nether-Bow-Port of the said city, and keeping open the same,

A copy of
Porteous's
bill.

‘ **W**HEREAS upon *Tuesday* the 7th day of
 ‘ *September*, in the year of our Lord 1736,
 ‘ there was a most seditious and outrageous riot in
 ‘ the city of *Edinburgh*, in that part of *Great Britain*
 ‘ called *Scotland*, notoriously concerted and carried
 ‘ on by great numbers of wicked, disorderly, and
 ‘ blood-thirsty persons, who did, with open force
 ‘ and violence, seize the arms of the city guard,
 ‘ possess themselves of the city gates, and, by set-
 ‘ ting fire to, and breaking open the door of the
 ‘ *Tolbooth* of the said city, did unlawfully and auda-
 ‘ ciously rescue and set at large several criminals
 ‘ therein confined: And whereas captain *John Por-*
 ‘ *teous*, then a prisoner there under sentence of death,
 ‘ but graciously reprieved by the Queen’s most ex-
 ‘ cellent Majesty, as guardian of the realm, was by
 ‘ the said rioters in a cruel manner dragged from the
 ‘ said prison, and most barbarously hanged by the
 ‘ neck, and murdered, in manifest violation of the
 ‘ public peace, in defiance and subversion of legal
 ‘ government, in high contempt of our sovereign
 ‘ Lord the King, and his laws, and to the most
 ‘ presumptuous and unparalleled obstruction of the
 ‘ royal mercy: And whereas for some time before
 ‘ the committing of the said murder and riot, it was
 ‘ commonly reported in the said city of *Edinburgh*,
 ‘ that some such atrocious fact would be attempted,
 ‘ which, by proper care in the magistrates, citizens,
 ‘ and inhabitants of the said city, might have been
 ‘ prevented; notwithstanding which *Alexander Wil-*
 ‘ *son*, Esq; then and now Provost of the said city,
 ‘ then actually resident in the said city, and fully
 ‘ apprised of the said wicked design, did not take
 ‘ any precautions to prevent the said murder and
 ‘ riot, nor use the proper or necessary means to sup-
 ‘ press the same, or to preserve the peace of the said
 ‘ city; or, after the perpetration of the said fact, to
 ‘ discover, apprehend or secure the authors, actors
 ‘ or

‘ or abettors thereof, in manifest violation of the
‘ trust and duty of his office of chief magistrate of
‘ the said city ; nor were any means or endeavours
‘ used by the citizens and inhabitants of the said
‘ city, to prevent or suppress the said notorious riot,
‘ or to hinder the said inhuman and barbarous murder,
‘ or to discover the persons concerned therein,
‘ in order to bring them to justice : *Now*, in order
‘ to express the highest detestation and abhorrence
‘ of the said murder and riot, and to the end that
‘ the said enormous misbehaviours and neglects of
‘ duty, herein before mentioned, may not go unpunished,
‘ and that other persons may not presume, through hopes of impunity, to be guilty
‘ of the like for the future ; *Be it enacted* by the
‘ King’s most excellent Majesty, by and with the
‘ advice and consent of the Lords spiritual and temporal,
‘ and Commons, in this present Parliament assembled, and by the authority of the same, That
‘ the said *Alexander Wilson* be, and he is hereby,
‘ from and immediately after the passing this act,
‘ disabled and made incapable to have, hold, exercise,
‘ or enjoy the said office of Provost of the said
‘ city of *Edinburgh* : And that he the said *Alexander Wilson*
‘ be, and he is hereby for ever hereafter, disabled,
‘ and rendered incapable to have, hold, exercise,
‘ or enjoy any office or place of magistracy
‘ in the said city of *Edinburgh*, or elsewhere, in
‘ *Great Britain*.

‘ *And it is farther enacted* by the authority aforesaid,
‘ That a new Provost be immediately chosen
‘ in the room of the said *Alexander Wilson*, in the
‘ same manner as if the said *Alexander Wilson* was
‘ naturally dead ; and that he, the said *Alexander Wilson*,
‘ shall be detained and kept in close and safe
‘ custody, without bail or mainprize, during the
‘ space of (one whole year) to be accounted from
‘ the day of passing this act, in any goal or prison
‘ within the kingdom of *Great Britain*, to the custody
‘ to day

‘ tody of the goaler or keeper whereof the said
‘ *Alexander Wilson* shall from time to time be com-
‘ mitted, in pursuance of this act, by any warrant
‘ under the hand and seal of any Secretary of State,
‘ of his Majesty, his heirs, or successors, which war-
‘ rant or warrants any Secretary of State for the
‘ time being, is hereby authoris’d and empowered
‘ to make.

‘ *And whereas* the said city of *Edinburgh* hath,
‘ for many years past, kept up a military guard,
‘ called the *Town Guard*, which upon the said late
‘ unhappy occasion has appeared to be of no use :
‘ *And whereas*, for want of an open communication
‘ between the said city, and a place called the *Can-*
‘ *nongate*, adjoining thereto, wicked and disorderly
‘ persons are the more encouraged (especially in the
‘ night, when the gates of the *Nether-Bow-Port* of
‘ the said city are shut) to attempt to commit dis-
‘ orders and riots in the said city : *And whereas*, it
‘ is just and necessary, that the power of keeping
‘ up the said guard should be taken away, and that
‘ the said *Nether-Bow-Port* should be kept open :
‘ *Be it farther enacted* by the authority aforesaid,
‘ That from and after the first day of *July* 1737,
‘ the said military guard, commonly called the
‘ *Town Guard*, be taken away, and abolished, and
‘ no longer kept up ; any law, statute, prescription,
‘ or usage to the contrary in any wise notwithstand-
‘ ing : *And* that the then Provost and Bailiffs of
‘ *Edinburgh*, on or before the said first day of *July*
‘ 1737, shall cause the said gates of the *Nether-Bow-*
‘ *Port* to be taken down, and that the communi-
‘ cation between the said city and *Cannongate*, be
‘ for ever hereafter kept open, both by night and
‘ by day ; any law or usage to the contrary not-
‘ withstanding.’

On the 4th of *April*, this bill was read a first time,
and ordered to be read a second time, but not till
May ;

May; the Lord Provost, and the city of *Edinburgh*, being admitted to be heard by their counsel against the bill, upon its second reading.

Tuesday, *April* 26, after several Lords had spoke for, and against the sentence pronounced against *Porteous*, by the high court of *Justiciary* in *Scotland*, a motion was made for declaring it erroneous.

Argument for the motion by Lord *Carteret*, the Bishop of *Salisbury*, &c.

‘ My Lords, altho’ it cannot be supposed that
 ‘ we have, or can have, all the lights which time
 ‘ and circumstances may hereafter discover and ma-
 ‘ nifest, with regard to the trial of the unfortunate
 ‘ Capt. *Porteous*, and the sentence passed upon him ;
 ‘ yet, I think, we have sufficient for shewing us, that
 ‘ That sentence was extremely rigorous, to give it
 ‘ no worse a name ; and, as it is an affair, in which
 ‘ the peace and tranquillity of this island, and the
 ‘ safety of his Majesty’s subjects, are very much
 ‘ concerned, I am humbly of opinion, we ought
 ‘ not to pass over that severe sentence without some
 ‘ censure.

A debate
 concerning
 the sentence
 passed on
Porteous.

‘ In that trial, my Lords, the first thing that
 ‘ occurs to our notice is, the interlocutory sentence
 ‘ passed upon the relevancy of the libel, and for di-
 ‘ recting what matters should be brought in proof
 ‘ at the ensuing trial ; with respect to which, there
 ‘ appears to me, at first view, two very material
 ‘ objections. The first proceeds from an error or
 ‘ mistake, as I imagine, with regard to the law of
 ‘ *Scotland* : and, indeed, of every well regulated so-
 ‘ ciety in the world ; and the other is, in my opi-
 ‘ nion, an evident piece of injustice done to the
 ‘ unfortunate prisoner.

‘ As to the first, my Lords, by that interlocutory
 ‘ sentence they determined, “ That the pannel, or
 ‘ “ prisoner

“ prisoner, having at any of the times and places
“ libelled, fired a gun among the people assembled
“ at the execution, or having given orders to the
“ soldiers under his command, to fire, and thereup-
“ on they, the soldiers, or any of them, having ac-
“ cordingly fired ; and, upon the firing, either by
“ himself, or them, the persons mentioned in the in-
“ dictment, or any of them, were killed or wound-
“ ed ; or, the pannel’s being art and part of any
“ of the foresaid crimes, are, *separatim*, relevant to
“ infer the pains of law.” I do not pretend, my
“ Lords, to be fully acquainted with the laws of
“ *Scotland* ; but from the law of reason, which I take
“ to be the law of every country, and, I hope, is the
“ law of *Scotland*, I must think this determination
“ too general ; I think there ought to have been an
“ exception, with regard to his having been first at-
“ tacked or assaulted by the mob ; and, therefore, I
“ must think these words, or some such words, ought
“ to have been inserted ; *unless it should appear, that*
“ *he or his party were violently attacked or assaulted by*
“ *the mob, and brought into danger of their lives, or of*
“ *being disabled from performing their duty.*

“ I am sorry, my Lords, we should ever have
“ occasion to employ a military force, or any thing
“ like a military force, in the execution of the law,
“ or, in bringing any criminal to condign punish-
“ ment ; but, in this country, as well as in every other
“ country, the populace are sometimes instigated by
“ selfish and designing men, to oppose the distribu-
“ tion of justice ; or, in some cases, perhaps, to take
“ upon themselves an usurped power of distributing
“ justice ; and, when any such case as either of these
“ happens, it becomes necessary for the magistrate
“ to make use of a military force, or something like
“ it, in order to execute the laws, or to protect his
“ Majesty’s innocent subjects, who happen to be so
“ unfortunate as to incur the resentment of an enraged
“ and

and unruly populace. In either of these cases, I hope, it will never be established as the law of any part of this island, or any the dominions belonging to it, that those who are called to the assistance of the civil magistrate, shall be hanged for murder, in case they should find themselves under a necessity of firing upon those who violently attack or oppose them in the execution of their duty ; for if this were established, or supposed to be established, as the law of the kingdom, it would not only greatly encourage tumults, and riotous assemblies, but would make it impossible for the civil magistrate to suppress them, or to prevent whatever mischief the fury of a mob, the malice of private men, or, perhaps the desire of plunder might suggest. Even the civil magistrate himself would run the risque, either of having his brains knocked out by the mob, or of being afterwards hanged by the law, if he should take the proper measures, or give to his assistants the proper and the only effectual orders, for defending themselves and dispersing a riotous assembly. For this reason, as the law permits the carrying of fire-arms to those who are called as assistants to the civil magistrate, it must certainly, in some cases, allow them to make the proper use of those arms ; and I cannot think any case can happen more necessary for allowing them that liberty, than when some of them are wounded, and their bones actually broke, by the stones thrown at them by the mob ; which was the case when that accident happened, for which *Porteous* was condemned to die, by the sentence now under our consideration.

As I take it to be the law of every country, that neither the civil magistrate, nor any of his assistants, shall be deemed guilty of murder, if they happen to kill any of those who oppose them, or who assault them in the execution of their duty ; so I find, my Lords, this case is particularly regulated

‘ lated in *Scotland*, by an act of Parliament made
‘ for that purpose, in the reign of *James VI.* where-
‘ by it is expressly enacted, That neither the magi-
‘ strates nor people of *Edinburgh*, nor any person
‘ assisting them in preserving the peace, and pre-
‘ venting riots or tumults, shall be prosecuted for
‘ the wounding or killing of any person upon such
‘ occasions; which is an act so much adapted to
‘ the case of *Porteous*, that I am surprized it was
‘ not so much as mentioned at his trial. Whether
‘ this law was ever repealed by any future act of
‘ Parliament, I do not know; but if it is still in
‘ force, I am of opinion, it might have been pleaded
‘ even in bar of the indictment.

‘ The other objection, my Lords, is against that
‘ part of this interlocutory sentence, which directs,
‘ and really confines the prisoner, as to what evi-
‘ dence he was to bring for his vindication. What
‘ may be the method of such trials in *Scotland*, I do
‘ not know; but in this country, it is certain the
‘ prisoner is allowed to examine whatever witnesses
‘ he pleases to call, and to prove all those facts and
‘ circumstances he may think proper for his justifi-
‘ cation. After all his witnesses have given their evi-
‘ dence, it belongs to the jury to consider, whether
‘ the facts and circumstances proved, can any way
‘ tend to prove the innocence of the person accused,
‘ or to alleviate the crime laid to his charge; but
‘ surely the court is not to tell the prisoner, or the
‘ jury, that he shall not be allowed to examine any
‘ witness as to such a circumstance, because it no way
‘ relates to the matter in hand; for, sometimes, by
‘ examining a witness as to a fact, seemingly very re-
‘ mote, another fact or circumstance comes to light,
‘ by which the innocence of the person accused may
‘ be made manifest. For this reason, I must think
‘ it a most dangerous method of proceeding, to lay
‘ any restraint upon a prisoner, with respect to the
‘ points he is to be admitted to prove at his trial;
‘ and

‘ and it must be much more so, to confine him to
‘ those facts and circumstances only which happened
‘ at the time the crime he is accused of was commit-
‘ ted : In the case now before us, surely the unfortu-
‘ nate prisoner ought to have been allowed to adduce
‘ what evidence he could, with respect to all circum-
‘ stances which might any way relate to the crime
‘ of which he was accused, whether those circum-
‘ stances happened at, or before, or after the time
‘ the crime was said to have been committed ; in
‘ which case he might perhaps have proved, that he
‘ had express orders from the magistrates to fire
‘ upon the mob, if they made the least attempt to
‘ assault him or his guard, or to rescue the criminal
‘ from the hands of justice ; and if he had proved
‘ his having had such orders, surely he ought not to
‘ have suffered for obeying them ; for upon the trial
‘ it was fully proved, that both he and his guard were
‘ assaulted, and some of them wounded, by the mob,
‘ before he or any of the soldiers attempted, or so
‘ much as threatened to fire ; and, I think, it ap-
‘ pears upon the trial, that a sort of rescue was actu-
‘ ally made ; for the duty of the guard was not
‘ only to see the criminal hung up, but to see him
‘ hang by the neck till dead ; that is, till the execu-
‘ tioner should, by order of the proper magistrates,
‘ cut him down, which never was done : The cri-
‘ minal, as appears upon the trial, was cut down by
‘ one of the mob, and was cut down before any
‘ magistrate had given an order for cutting him
‘ down ; which was really, in my opinion, a sort
‘ of rescue, and such a rescue as would have justified
‘ the guard’s firing upon those that were guilty of
‘ it, if they had proper orders for that purpose.

‘ From what I have said, my Lords, it appears,
‘ that the prisoner, in this case, was debarred the
‘ privilege of proving what might have justified him
‘ upon his trial ; which was, in my opinion, doing
‘ him a very great piece of injustice in the very first
‘ step

‘ step of his trial ; and in all the other parts of the
 ‘ trial, the proceedings against him seem to have
 ‘ been carried on with the utmost rigour ; for, con-
 ‘ sidering how widely the several witnesses differ
 ‘ from one another, and how easy it is for men to
 ‘ mistake words upon such an occasion, as well as
 ‘ to mistake the firing of one piece for the firing of
 ‘ another, I must think the jury shewed him no fa-
 ‘ vour in their verdict. However, as they likewise
 ‘ found it proved, that the pannel and his guard
 ‘ were attacked, and several of the soldiers bruised
 ‘ and wounded, which was a sort of special verdict,
 ‘ they left it to the judges to do as they thought fit,
 ‘ upon considering and arguing that special verdict ;
 ‘ and considering that there was a possibility of the
 ‘ captain’s being innocent, notwithstanding the proof
 ‘ that was against him, the judges ought, I think,
 ‘ to have allowed of that attack or assault as an ex-
 ‘ cuse, so far at least as to prevent his being deemed
 ‘ guilty of murder ; therefore, I hope, your Lord-
 ‘ ships will agree to this resolution, *That the trial*
 ‘ *and condemnation of captain Porteous was erroneous*
 ‘ *in several particulars.*’

Argument
 against the
 motion.

‘ My Lords, as I am convinced there was no
 ‘ secret or mystery in any part of the trial now
 ‘ under your consideration, as it was a public open
 ‘ trial, according to the laws and the common me-
 ‘ thods of proceeding in such cases in that country,
 ‘ therefore, I believe, we have now all the lights
 ‘ before us which any future time can discover ;
 ‘ and I think we have sufficient lights for shewing
 ‘ us, that the trial was regular, and the sentence
 ‘ just. I shall readily agree with the noble Lord,
 ‘ that the peace and tranquillity of the island, and
 ‘ the safety of his Majesty’s subjects, were very
 ‘ much concerned in the issue of that trial ; for con-
 ‘ sidering how full the proof was against the priso-
 ‘ ner,

ner, considering how manifestly his guilt appeared to every man present at the trial, if he had been acquitted either by the jury or by the judges, I do not know but it might have occasioned an insurrection in that part of the island ; and it would have given occasion to every hot-headed officer, sent upon any command, to have murdered His Majesty's subjects, upon the least affront offered to him by the populace.

I have, my Lords, as great an aversion to mobs, and to all sorts of riotous proceedings, as any man can have, as any man ought to have ; and I as heartily wish we never had occasion to employ any thing like a military force in the execution of the law, or in bringing any criminal to condign punishment ; yet I think the liberty of firing at random upon any multitude of his Majesty's subjects, is a liberty which ought to be most cautiously granted, and never made use of but in cases of the most absolute necessity ; and in this way of thinking I am supported by the whole tenor of the laws of *England*. It is now three or four hundred years since fire-arms first became in use among us, yet the law has never suffered them to be made use of by the common officers of justice. Pikes, halberts, battle-axes, and such like, are the only weapons that can be made use of according to law by such officers ; and the reason is extremely plain, because with such weapons they can seldom or never hurt, much less kill, any but such as are really opposing or assaulting them ; whereas, if you put fire-arms into their hands, and allow them to make the proper use of such arms, they may as probably hurt or kill the innocent as the guilty ; nay in cities and towns, where such tumults generally happen, they may kill people sitting in their own houses, or looking innocently over their windows, which all persons are apt to do, but especially women and children, when they hear any hubbub or noise.

‘ in the streets ; and which was really the case in the
‘ affair now before us ; for one woman was killed in
‘ her master’s house, by her being unfortunately,
‘ but innocently, at the window when the soldiers
‘ fired.

‘ For this reason, my Lords, I hope it will ne-
‘ ver be laid down as a maxim in this house, that
‘ any party of soldiers, or others, assisting the civil
‘ magistrate, has a power to fire at random upon a
‘ multitude of His Majesty’s subjects, or in the streets
‘ of any town or city ; or that any magistrate has,
‘ in any case, an unconfined power to give them any
‘ such orders ; much less to give them orders to fire
‘ upon a multitude, which was at first lawfully and
‘ innocently assembled together : for there are two
‘ sorts of mobs or assemblies of the people ; one is,
‘ when a multitude of people assemble together up-
‘ on any lawful or innocent occasion, and afterwards
‘ happen to become riotous ; and the other is, when
‘ a multitude of people assemble together with a
‘ design to commit some unlawful or wicked action.
‘ With respect to the former, the most gentle mea-
‘ sures ought to be made use of for dispersing them,
‘ because many innocent persons being inveigled in-
‘ to the crowd, it may be some time before they can
‘ possibly get away ; but, with respect to the latter,
‘ as all that are assembled together upon such an oc-
‘ casion must be some way guilty, therefore more
‘ rough and violent measures may be made use of for
‘ dispersing them, and for preventing the mischief
‘ they intended. But in both these cases the law is
‘ now certain and indisputable. Your Lordships all
‘ know that by a late statute, which is in force in
‘ *Scotland* as well as *England*, the power of the civil
‘ magistrate, in the case of any mob or riotous as-
‘ sembly, is fully and distinctly regulated ; yet even
‘ by that law, which I have often heard complained
‘ of as a law not tolerable in a free country, there is
‘ no express power given to the magistrate or his
‘ assistants

‘ assistants to make use of fire-arms ; so cautious was
‘ the Legislature, even at that time, when tumults
‘ were more frequent and more dangerous than they
‘ are at present, of giving a legal authority for the
‘ making use of such weapons. After reading the
‘ proclamation, and after giving the mob an hour’s
‘ time to disperse themselves, and to depart to their
‘ habitations or lawful business, the peace-officers
‘ may then, by that law, seize or disperse those who
‘ shall afterwards continue unlawfully assembled ;
‘ and if any person, by resisting them, shall happen
‘ to be killed, maimed, or hurt, the peace-officers
‘ and their assistants are indemnified ; but I doubt
‘ much if a magistrate would be indemnified, even
‘ by this law, should he take the short way of dis-
‘ persing a mob, by ordering his assistants to fire
‘ among them, and should thereby kill any person
‘ who had committed no overt-act of resistance ; es-
‘ pecially if it should appear, that he had fired upon
‘ the mob without any necessity for so doing, and
‘ even without any extraordinary provocation.

‘ In such a case, my Lords, if the magistrate, or
‘ any of his assistants who did fire, were to be pro-
‘ secuted by the laws of *England*, I believe he would
‘ be brought in guilty, at least of manslaughter ;
‘ and, as what is deemed manslaughter by the laws
‘ of *England*, is generally deemed murder by the
‘ laws of *Scotland* ; and as every killing is deemed
‘ murder by the laws of that country, unless it hap-
‘ pens by chance, or *se defendendo*, therefore the
‘ judges had no power, by the laws of that country,
‘ to add any such exception, as has been mentioned,
‘ to the interlocutory sentence ; nor did the prisoner
‘ pretend to found his innocence or his defence upon
‘ any such exception ; for both he and his lawyers
‘ were very well convinced, there was no pretence
‘ for such an argument from any of the laws of his
‘ country. And with respect to that of King *James*
‘ VI, which was mentioned by the reverend Prelate,

‘ I am not at all surprized it was not pleaded, or so
‘ much as mentioned by the counsel for the prisoner ;
‘ on the contrary, I am rather surprized it was not
‘ made use of against him ; for from that law it ap-
‘ pears, that his firing, or giving orders to fire, was
‘ downright murder. That law was made for pre-
‘ venting or quelling riots and tumults within the
‘ city of *Edinburgh* ; for which purpose the magi-
‘ strates of that city are enabled, with the King’s al-
‘ lowance, to raise soldiers on pay, to use haquebuts
‘ and all other arms when they shall think expedi-
‘ ent ; and if any person resisting the said magistrates
‘ in the quelling of any riot, shall be hurt or slain,
‘ the magistrates and their assistants are indemnified ;
‘ *providing such hurt or killing was with long weapons,*
‘ *and not by shooting haquebuts, or the like.* I need
‘ not acquaint your Lordships, that *haquebut* was the
‘ name then used in that country, and formerly in
‘ this, for fire-arms ; and that by *long weapons* was
‘ meant halberts, battle-axes, and such weapons as
‘ are commonly used by all assistants to officers of
‘ justice, in that part of the island as well as this.
‘ Thus your Lordships see, that killing with any
‘ sort of fire-arms was expressly excepted out of that
‘ law ; and therefore that law was so far from being
‘ in favour of the prisoner, that there might from
‘ thence have been drawn a very strong argument
‘ against him.

‘ I know, my Lords, it will be said, that the
‘ officers of justice and their assistants, especially His
‘ Majesty’s troops, when they happen to be called to
‘ the assistance of the civil magistrate, are in a very
‘ unlucky situation, if they are not to be allowed to
‘ make use of the arms in their hands, for prevent-
‘ ing their being knocked on the head with stones
‘ and brick-bats. This I shall readily grant, and I
‘ wish some proper regulation were made for the di-
‘ rection and security of the gentlemen of the army ;
‘ but we are now to consider the law as it stands
‘ at

‘ at present ; and as the law now stands in *England*,
‘ as well as *Scotland*, if an innocent person suffers
‘ death by firing, especially if that firing was before
‘ any proclamation read, the person that fired, and
‘ he who gave him orders to fire, might both be
‘ prosecuted for murder ; I am afraid neither of them
‘ would have any resource but in the King’s mercy.
‘ The soldiers may, upon such occasions, make use
‘ of their screwed bayonets for dispersing or seizing
‘ the rioters ; by so doing they can hurt none but
‘ those that resist them ; but I would not advise them
‘ to fire, unless they should find themselves in very
‘ great danger of being overpowered, and perhaps
‘ murdered by the mob.

‘ As for the other objection against this interlocu-
‘ tory sentence, it is founded intirely, my Lords,
‘ upon the method of proceeding, and may be an
‘ objection against the laws of that country, but can
‘ be no objection against this trial in particular. In
‘ that country the prisoner has a copy of his libel or
‘ indictment delivered to him, and has time allow-
‘ ed him to consider and consult with his lawyers,
‘ what defence he thinks proper to make. These
‘ defences are afterwards considered by the court,
‘ and if they observe any facts that can any manner
‘ of way contribute towards his justification, he is
‘ allowed process for summoning witnesses to prove
‘ such of them as are denied by the prosecutors ; but
‘ if they be such as can no manner of way contribute
‘ towards his justification, or such as are admitted by
‘ the prosecutors, he is not allowed to take up the
‘ time of the court with impertinent or needless exa-
‘ minations ; and the reason of this is, because the
‘ examination of witnesses is in that country carried
‘ on in a more tedious, but a much more certain
‘ and solemn manner, than in this. The evidence
‘ of every witness is taken down in writing by the
‘ clerks at the table, and after he has been fully exa-
‘ mined, and cross-examined, his evidence is read

‘ over to him, and he must sign or put his mark to
 ‘ it, in order that it may remain as a record against
 ‘ him, in case it should ever afterwards appear that
 ‘ he had wilfully perjured himself in the least article
 ‘ of his evidence. Though this method carries
 ‘ along with it a great security against perjury, yet it
 ‘ has laid the criminal courts there under a necessity
 ‘ of restraining the prisoner, and confining him to
 ‘ the proving of those facts that are material, and
 ‘ denied by the prosecutor ; but this can never be
 ‘ any disadvantage to a prisoner, or to a person in-
 ‘ dicted, unless the court should exclude him from
 ‘ proving what was really material ; and if the court
 ‘ should do any such thing, the jury would proba-
 ‘ bly consider it in their verdict.

‘ This method of proceeding, my Lords, may
 ‘ perhaps appear a little extraordinary to most of
 ‘ your Lordships, who have always been accus-
 ‘ tomed to a different method ; but this method has cer-
 ‘ tainly some advantages, which the method observ-
 ‘ ed in this country has not ; and let this method be
 ‘ good or bad, it is the method of proceeding esta-
 ‘ blished by the laws of that country, which cannot
 ‘ be altered by any court, or by any judge. If it
 ‘ could be said, that the court of Justiciary in *Scot-*
 ‘ *land* had debarred *Porteous* from proving any facts
 ‘ he desired leave to prove, some objection might
 ‘ then be made to the trial ; but the truth is, as
 ‘ will appear upon the face of the trial, there was
 ‘ not any fact he desired leave to prove, but what
 ‘ was either admitted by the prosecutors, or he was
 ‘ admitted to prove ; and particularly as to his hav-
 ‘ ing had previous orders from the magistrates, all
 ‘ he contended was, That he had orders from the
 ‘ magistrates to make his guard charge with shot,
 ‘ and even to fire among the mob in case of resist-
 ‘ ance ; and he did not so much as desire, nor was
 ‘ there any occasion for his desiring leave to prove
 ‘ fact, because it was admitted by the prosecu-
 ‘ tors

‘ tors in their pleadings, and was likewise admitted
‘ in their printed information ; nay, there was not
‘ any one fact, nor any circumstance in his beha-
‘ viour, either before or after the committing of
‘ that crime, upon which he could pretend to lay
‘ the least stress, with respect to his vindication, but
‘ what was either admitted by the prosecutors, or he
‘ was admitted to prove ; so that I am surprized to
‘ hear it so much as insinuated, that the least inju-
‘ stice was done him in this respect. On the con-
‘ trary, by the whole tenor of the trial, it appears
‘ he rested his innocence intirely upon a flat denial
‘ that he either fired, or gave orders to fire.

‘ And now, my Lords, with respect to the jury,
‘ I must think it a little hard : I believe it is not
‘ usual for your Lordships to pass any censure upon
‘ the verdict of twelve men delivered upon oath.
‘ Besides, these twelve men were all either gentle-
‘ men, or substantial merchants or tradesmen ; they
‘ were none of the mob, nor were there any talef-
‘ men among them : They have no such thing in
‘ that country ; when it comes to a gentleman’s turn
‘ to attend upon a jury, he must attend, he cannot
‘ excuse himself by giving a shilling or half a crown
‘ to the sheriff’s officer. These gentlemen were,
‘ perhaps, personally acquainted with many of the
‘ witnesses ; some of them were perhaps themselves
‘ at the execution ; and therefore it must be allow-
‘ ed, they were better judges what credit was to be
‘ given to the several witnesses, than any of your
‘ Lordships can be. It was positively affirmed by
‘ several witnesses, that they saw *Porteous* fire ; it
‘ was positively affirmed by several others, that they
‘ heard him give orders to his guard to fire ; other
‘ witnesses said, they did not see him fire, and that
‘ they heard him call to his men not to fire. Both
‘ these might have been true ; but suppose they could
‘ not, surely the gentlemen of the jury were better
‘ judges which side they ought to give credit to,
‘ than

‘ than any Lord of this house can now pretend to
‘ be ; and their having brought in a special verdict,
‘ is to me a full proof they were, what every jury
‘ ought to be, altogether impartial.

‘ But, my Lords, from this special verdict, I find
‘ an occasion is taken to find fault with the severity
‘ of the sentence. I should be glad to know from
‘ those noble Lords, who have found fault with this
‘ sentence, what they think the judges might have
‘ done ? For, in my opinion, they could do nothing
‘ but what they have done. I have told your Lord-
‘ ships, we have no such thing as manslaughter in
‘ *Scotland* ; the jury, by their verdict, had found the
‘ prisoner guilty of killing and wounding a great
‘ many of His Majesty’s subjects, but that he had
‘ been provoked by the throwing of stones, by which
‘ some of his men were wounded. What could the
‘ judges do in this case ? They must either determine,
‘ that the killing was murder, or they must have
‘ said it was *se defendendo*, or by chance : No law in
‘ the world could have justified them in determin-
‘ ing, that the prisoner had killed these people by
‘ chance, or *se defendendo* ; therefore they were ob-
‘ liged to determine it was murder, and to pass sen-
‘ tence accordingly. They might perhaps have re-
‘ commended him to the crown as a proper object
‘ of mercy ; but I do not find they did, and I must
‘ beg leave to say, I do not think they had any rea-
‘ son to do so ; for, though I would go as far as any
‘ man, in justifying an officer for executing his or-
‘ ders, and performing his duty with courage and
‘ resolution ; yet, in our own dominions, and among
‘ our own subjects, except in cases of an open rebel-
‘ lion, I think a great tenderness ought to be shewn
‘ towards the people : I am sure a man of real cou-
‘ rage always will ; and though the unfortunate man,
‘ whose trial is under our consideration, is now dead,
‘ yet I cannot help saying, that upon the occasion
‘ for which he was afterwards condemned to die, he
‘ behaved

‘ behaved more like a madman than like a prudent
‘ and brave officer.

‘ I shall not pretend, my Lords, to justify every
‘ part of the law of *Scotland*, or every method they
‘ have of proceeding in their courts of justice. There
‘ is not, there never was, I believe, a body of laws
‘ in the world, against which a great many objecti-
‘ ons may not be made. In every country, the in-
‘ habitants are apt to extol the justice and perfection
‘ of their own laws ; and those who are of a diffe-
‘ rent country, are sometimes apt to mistake the
‘ greatest beauties for great imperfections. I do not
‘ pretend to understand the law of this country, it
‘ is none of my business ; but I think I could point
‘ out several imperfections ; I shall only mention
‘ one, which I really take to be not only an imper-
‘ fection, but an absurdity. By the law of this king-
‘ dom, if a rich man is convicted of felony, the she-
‘ riff is to be a great gainer by his conviction ; he
‘ may perhaps acquire an opulent fortune by such
‘ conviction, and yet that very sheriff is the man
‘ who is to name the jury who are to try him, and
‘ may name such persons as he thinks fit. Accord-
‘ ing to this method, a rich man must take great
‘ care never to be indicted for felony, or at least ne-
‘ ver to let it come to a trial, however false and ma-
‘ licious the prosecution may appear to be ; for if he
‘ should allow it to come to a trial, I think he stands
‘ more than an equal chance of having a verdict a-
‘ gainst him ; because as soon as that verdict is re-
‘ turned, the sheriff becomes his heir, or at least his
‘ executor, and may immediately take possession of
‘ his personal estate. I could mention many other
‘ imperfections, and perhaps errors, in the law of
‘ *England*, and I do not doubt but there are as ma-
‘ ny in the law of *Scotland* ; but neither the one nor
‘ the other ought to be altered in any material point,
‘ without very mature consideration ; otherwise we
‘ may happen to create two new imperfections for
‘ every

‘ every one of the old we attempt to remove. The
 ‘ laws of *Scotland*, upon which the unfortunate man,
 ‘ whose case is now under our consideration, was
 ‘ condemned, may be wrong ; the methods of pro-
 ‘ ceeding, by which he was tried, may be severe :
 ‘ But such as they are, they were then, and are still
 ‘ the laws of that country, according to which the
 ‘ judges were bound by their oath to proceed and
 ‘ determine : therefore, if your Lordships come to
 ‘ any resolution relating to that trial, your resolution
 ‘ ought, in my opinion, to be, That it was regu-
 ‘ lar and just ; and such a resolution will, I am sure,
 ‘ contribute more to the peace and tranquillity of
 ‘ the kingdom, and to the safety of His Maje-
 ‘ sty’s subjects, than any censure you can put upon
 ‘ it.’

As this motion was not much insisted on, there was not any thing said by way of reply, nor any division upon it.

Speakers.

The chief speakers for the motion, were, Lord *Carteret*, Lord *Bathurst*, the Earl of *Winchelsea*, and the Lord *Lovel*. The Lord Chancellor and the Bishop of *Salisbury* spoke against the trial, but thought they had not sufficient lights to pass any censure upon it ; and the chief speakers against the motion, and in favour of the trial, were, the Lord *Hervey*, the Earl of *Findlater*, the Earl of *Ilay*, the Duke of *Argyle*, and the Earl of *Scarborough*.

Upon occasion of this debate, the Duke of *Argyle* proposed that the judges should deliver their opinions upon the following questions relating to the above act, *viz.*

Queries to be
 proposed to
 the Judges
 for their o-
 pinion.

‘ I. If an execution should be performed in
 ‘ *Stocks-market*, where a guard of the regular troops
 ‘ should be drawn up by lawful command to pre-
 ‘ vent

‘ vent a rescue of the criminal, and should several
‘ stones thrown from among the croud, light among
‘ them, by some of which several soldiers should be
‘ bruised and wounded ; would such a guard be
‘ guilty of a crime, if by firing among the crowd,
‘ they should kill several persons ? And if guilty of
‘ a crime, what crime it would be ?

‘ 2. Upon occasion of a riot in or near a town,
‘ where a regiment is quartered, should the sheriff
‘ of the county order the commanding officer to as-
‘ semble the regiment, and march to his assistance
‘ against the rioters, is such officer obliged to obey,
‘ or may he obey ? And what penalty there is, if
‘ he should refuse ?

‘ 3. If a detachment of the army is ordered
‘ to prevent a number of people from pulling down
‘ of houses, or committing any other illegal action,
‘ and that the commanding officer of such detach-
‘ ment has orders to repel force by force, can such
‘ detachment lawfully make use of force by firing,
‘ unless they are attacked by the rioters ?

‘ 4. In case rioters should be pulling down hou-
‘ ses, or doing any other mischief in one part of the
‘ town, and a detachment of the army should be
‘ ordered, in aid of the civil magistrate, to march
‘ thither to disperse them, and a number of people
‘ should assemble, and stop up such of the passages
‘ through which such detachment must necessarily
‘ pass, whether such detachment may use force to
‘ disperse the people so assembled, in order to pass
‘ that way, without being first attack’d by them ?

Ordered accordingly.

“Supposing such an execution in *Edinburgh Grass-*
‘ *market*, the *Scotch* judges to answer the same que-
‘ stions by the *Scotch* laws, and sign their opinions.

Ordered accordingly.

The

A debate in the house of Lords, whether the Scotch Judges should be examined at the Bar, at the Table, or upon the Wooll-sacks

The three judges before-mentioned, being arrived from *Scotland*, according to order, there arose a question in the house of Peers, whether they ought to be examined at the bar, at the table, or upon the wooll-sacks ; which question was debated for some time on *Friday, April 29* ; but the Earl of *Ilay* having proposed, that the house should resolve itself into a committee, to search precedents in relation to that question, the same was agreed to, and it was resolved, That the house would, on the *Monday* following, resolve itself into the said committee ; and accordingly, on that day, the house being resolved into the said committee, the question was again fully debated, and the arguments for examining them at the table, or upon the wooll-sacks, were to the following effect, *viz.*

Arguments for their being examined at the Table, or on the Wooll-sacks.

‘ My Lords, as I was not one of those Lords who
 ‘ desired the attendance of any judge or judges from
 ‘ *Scotland*, I cannot certainly tell what was the true
 ‘ meaning of their being ordered to attend ; but as
 ‘ no enquiry has been made into any part of their
 ‘ conduct, as no resolution of the committee seemed
 ‘ to be directed against any of them, I cannot
 ‘ think they were called up, or meant to be called
 ‘ up, as persons guilty of any crime or misdemean-
 ‘ or ; and as they had nothing to do with any thing
 ‘ that happened when *Porteous* committed that crime
 ‘ for which he was condemned to die, nor with any
 ‘ thing that happened at the time that unfortunate
 ‘ man was murdered, I cannot think they were call-
 ‘ ed up as witnesses in any part of that affair ; there-
 ‘ fore I must suppose the only reason for desiring
 ‘ their attendance proceeded from the authentic co-
 ‘ py of *Porteous’s* trial now upon your table. I
 ‘ suppose, from that trial, some doubts and difficul-
 ‘ ties had occurred to your Lordships with regard
 ‘ to the laws of *Scotland*, and the judicial proceed-
 ‘ ings

ings of the supreme court of Justiciary in that country ; and that therefore you desired the attendance of those three Judges, in order to resolve those doubts, and remove those difficulties.

‘ If this be the case, my Lords, I must think you can ask those Judges no questions, nor can they answer any questions, till they are brought into the house in a regular manner, and placed according to their rank upon the wooll-sacks. I am indeed surprized, that no regulation for this purpose was made by the articles of the Union, and I am as much surprized to find we have continued for so many years without making such a regulation ; for as the laws of *Scotland* are very different from those of *England*, there is as great a necessity for this house’s being always provided with the attendance of some, at least, of the *Scotch* Judges, as there is for our having some of the *English* Judges always among us. In this house laws are to be passed relating to *Scotland* as well as *England* ; in this house appeals in all causes from *Scotland* as well as *England*, are to be ultimately and finally determined ; in this house a Peer of *Scotland* may come to be tried for a crime committed in *Scotland*, and for which he is to be tried according to the laws of *Scotland* ; nay, in this house we may have occasion to pass laws for regulating the courts of justice in *Scotland* ; and how we can justly and conscientiously answer either of these purposes, without having some of the *Scotch* Judges among us, is what I can no way comprehend. It is true, we have at present, we have had ever since the Union, some of the sixteen Representatives of the Peerage of *Scotland*, who are, or have been, great masters of the laws of their own country, as well as of the laws of many other countries ; but this is a good fortune we are far from being sure of. We may have sixteen Peers sent up from *Scotland*, not one of whom may know more of the laws of *Scotland*

‘ *land* than most of us can pretend to know of the
‘ laws of *England* ; and in that case, I should be
‘ glad to know, how it would be possible for us to
‘ proceed upon, or determine any affair which re-
‘ quired a thorough knowledge, or at least, a full
‘ information, as to the laws of that country ?

‘ From this consideration, my Lords, I really
‘ think it inconsistent with the dignity of this house,
‘ and with the honour and character of our proceed-
‘ ings, not to have the attendance of some of the
‘ *Scotch* Judges, in order to give us proper lights,
‘ and such as may be depended on, into the laws
‘ and customs of that country ; for surely, no man
‘ can form a good opinion of the proceedings of any
‘ assembly, where the members determine without
‘ either knowledge or information ; and for this rea-
‘ son, I am surprized this affair was not particularly
‘ thought of, and expressly regulated at the time
‘ the Union was concluded. If it had been thought
‘ of at that time, I believe there is no doubt to be
‘ made, but that the Judges from *Scotland*, ap-
‘ pointed or ordered to attend this house, would
‘ have had places assigned them upon the wooll-
‘ sacks, next to the Judges of the same rank in
‘ *England* ; and tho’ this affair was at that time neg-
‘ lected to be expressly and particularly regulated,
‘ yet it is an affair, which I think, the people of
‘ *Scotland* may insist on from the general terms of
‘ the Union ; and it is an affair which, in my opi-
‘ nion, your Lordships cannot well refuse. By the
‘ articles of Union it is expressly stipulated, that
‘ there shall be but one Parliament for this united
‘ kingdom, and that the subjects shall have a com-
‘ munication of all advantages, except where o-
‘ therwise agreed in the articles of union. Is it not
‘ a great advantage to the people of *England*, to
‘ have their learned Judges always present in this
‘ house, in order to give us that information, which
‘ is necessary in all cases where a doubt arises about
‘ the

‘ the established laws and customs of *England* ? If
‘ this be an advantage, as it certainly is, the peo-
‘ ple of *Scotland* have a good title to claim the same
‘ advantage, and to insist upon having some of their
‘ Judges likewise present in Parliament, for the
‘ same necessary purpose. This is an advantage, I
‘ say, they have a good title, from these general
‘ words, to claim ; because it is no way excepted
‘ by any article of the Union ; and as every honour
‘ is an advantage, they have a right to claim, that
‘ the same honours, the same respect may be shewn
‘ by this house to the Judges of *Scotland*, as are
‘ shewn to the Judges of *England*, except that on-
‘ ly of allowing a preference to the latter, with re-
‘ spect to their respective ranks or degrees.

‘ As this house has ever since the Union had the
‘ good fortune to be supplied, from time to time,
‘ with noble Lords, eminent for their knowledge
‘ and experience in the laws of their country,
‘ who happened to be of the sixteen chosen to re-
‘ present the Peerage of *Scotland*, it has prevented
‘ our taking notice of this defect in the Union ; and
‘ it has prevented the people of *Scotland*’s laying
‘ claim to that advantage, which they certainly, in
‘ my opinion, have a title to claim ; it has even
‘ prevented their being sensible of any want in this
‘ respect : This, my Lords, contributes greatly to
‘ the honour of some Lords we have had among
‘ us from that country, and likewise to the honour
‘ of some we have still the happiness to have a-
‘ mong us ; for I must do so much justice to some
‘ of the noble Lords of that country we have now
‘ among us, as to say, that I believe we stand
‘ now as little in need of information from the
‘ learned Judges of *Scotland*, as ever we did in any
‘ former Parliament ; but this advantage must of
‘ course cease in a generation or two ; for as no new
‘ title of honour can be granted in *Scotland*, we can
‘ expect few or no lawyers from that country in the
‘ very

‘ very next age. I believe your Lordships are all
‘ sensible, we should often be at a great loss, even
‘ with respect to the laws of *England*, if we had no
‘ learned Judges to have recourse to, nor any Peers
‘ who had been raised to the honour of Peerage, on
‘ account of their profound skill and experience in
‘ the laws of their country ; and from thence your
‘ Lordships must see how necessary it will probably
‘ be for this house, in future times, to have always
‘ some of the learned Judges of *Scotland* attending.
‘ This is the first time any of them have ever been
‘ called to attend, it is the first time it has ever been
‘ thought necessary to ask them any questions ; and
‘ if your Lordships oblige them now to attend, if you
‘ think proper to ask them any questions, I hope you
‘ will shew them the same honours, the same re-
‘ spect, you would do to the Judges of any of the
‘ courts of *Westminster-hall*, if they should be or-
‘ dered to attend for the like purpose.

‘ To put this matter in a clear light, give me
‘ leave, my Lords, to suppose a writ of error
‘ brought into this house from any of the courts in
‘ *Westminster-hall*, from the court of *King’s-bench*,
‘ for example ; suppose upon reading the case, va-
‘ rious doubts and scruples should occur to some of
‘ your Lordships, with regard to the laws relating
‘ to that particular case, and with regard to the pro-
‘ ceedings below, for the clearing up of which, you
‘ should desire to ask the Judges some questions,
‘ and for that purpose should order them to attend
‘ at the hearing ; surely, you would not call them
‘ to the bar, you would desire them to attend only
‘ in their places upon the wooll-sacks. Again, sup-
‘ pose this very affair of *Porteous* had happened at
‘ *Newcastle* instead of *Edinburgh* ; suppose he had
‘ been tried and condemned by the Judges up-
‘ on the assizes there ; and suppose you should
‘ order the Judges, by whom he was condemned,
‘ to attend, in order to answer some questions, and
‘ to

‘ to explain some doubts, relating to his trial and
‘ condemnation, would your Lordships order them
‘ to attend at the bar? No, my Lords, you could
‘ not; you, at least, would not desire their atten-
‘ dance any where, but in their usual places upon
‘ the wool-sacks. Therefore, from a parity of rea-
‘ son, if your Lordships desire the Judges of the
‘ supreme court of *Justiciary* in *Scotland*, which is
‘ the same with the court of *King’s-Bench* in *Eng-*
‘ *land*; I say, if you desire those Judges to attend,
‘ if you desire to ask them any questions about the
‘ laws and customs of *Scotland*, you ought first, in
‘ my opinion, to take the proper method for giving
‘ them the places due to them upon the wool-sacks;
‘ in order that they may from thence answer such
‘ questions, as you have a mind to put to them;
‘ for, if they should answer questions from any other
‘ place, I am afraid, the greatest part of their coun-
‘ trymen will be apt to say, they have done what I
‘ shall not chuse to express.

‘ But now, my Lords, suppose the Judges you
‘ have called up, are not to have any questions put
‘ to them as Judges, but that they are to be examin-
‘ ed as witnesses, in order to see if they can give
‘ you any light into the affair now depending be-
‘ fore you; yet as judges of one of the supreme
‘ courts of *Scotland*, and, consequently, as having a
‘ right to be within the house, they ought to be
‘ examined at your table, which is the place, I be-
‘ lieve, where the Judges of *England* would be ex-
‘ amined, if they were to give evidence in any affair
‘ before you; for it appears upon your journals,
‘ that in the year 1689, two gentlemen had the ho-
‘ nour of being examined at your table, tho’ they
‘ were not then Judges, but only because they had
‘ been Judges, and, as such, had had places within
‘ the house. For this reason, the gentlemen who
‘ are attending by your order, if they are to be ex-
‘ amined as witnesses, ought, I think, to be examin-

‘ ed at the table ; it is what, in my opinion, they
‘ have a right to insist on by the articles of the
‘ Union between the two nations, which I hope your
‘ Lordships will never break through, in the most
‘ trifling circumstance, without the unanimous con-
‘ sent of both.

‘ I hope, my Lords, no incroachment will ever
‘ be made in this house upon the right of any pri-
‘ vate man ; I hope the meanest subject will always
‘ be able to sue with success in this house, for any
‘ right or privilege he can shew a just claim to ; but
‘ the right now in dispute before your Lordships, is
‘ not the right of a private man, nor is it a right of
‘ a private nature ; it is the right of a whole people,
‘ it is the right of a nation once free and indepen-
‘ dent, and, it is a right stipulated by one of the
‘ most public and most solemn contracts that was
‘ ever made ; a contract which on our parts we are
‘ obliged to observe and fulfil with the greatest ni-
‘ cety, because the people of *Scotland* trusted intirely
‘ to our honour for a faithful performance ; a sub-
‘ mitting to be governed by one and the same Par-
‘ liament, in which they knew we would always
‘ have a great majority, was really in effect submit-
‘ ting every thing to our honour ; and I hope, they
‘ shall never have the least occasion to repent of the
‘ confidence they have reposed in us. For this rea-
‘ son, in all cases, where the rights or the privileges
‘ of the people of *Scotland*, by virtue of the articles
‘ of Union, come to be questioned, I shall always
‘ have a strong bias in their favour, especially when
‘ the matter in question relates to a piece of mere
‘ ceremony. But in the present case, I must think,
‘ there can be properly no question ; for, whether
‘ the Judges of *Scotland* ought to be in this house as
‘ assistants, to give their opinions upon such matters
‘ of law, as may arise in the course of our proceed-
‘ ings, in the same manner as the Judges of *England*
‘ do, is a question, I think, determined not only by
‘ the

‘ the articles of Union, but by the very nature of
‘ the thing itself ; because while *Scotland* continues
‘ to be governed by laws different from *England*,
‘ it will be impossible for us to do our duty without
‘ such assistance.

‘ My Lords, as nothing contributed more than
‘ the Union between the two kingdoms, towards se-
‘ curing the protestant succession in the present il-
‘ lustrious family, so there is nothing can contribute
‘ more to the preservation of that succession, than
‘ the rendering that Union every day more firm and
‘ unalterable ; which can no way be done more ef-
‘ fectually, than by cementing the people by an
‘ Union in hearts and affections, as well as an Union
‘ established by law. While we have such a major-
‘ ity in both houses of Parliament, the people of
‘ *Scotland* will always find it impossible to break
‘ through or dissolve the legal Union that subsists
‘ between us ; but, if we should ever make use of
‘ that majority, which I hope we never shall, to
‘ break through or incroach upon those articles
‘ which have been stipulated between us, the legal
‘ Union will be of little force, it will only serve to
‘ make them desperate, and to run the risque even
‘ of their own perdition, in order to rid themselves
‘ of the yoke they groan under. They will be apt
‘ to ascribe to the present royal family all the ills
‘ they feel, or imagine they feel ; and, if they should
‘ unanimously join in a contrary interest, we know
‘ they would be supported by a numerous party in
‘ this part of the island, as well as by a powerful
‘ party beyond seas ; for which reason we ought to
‘ take all possible care, not to give them any just
‘ ground of complaint ; we ought even to avoid a
‘ measure which may be made use of by the ene-
‘ mies of the government, for sowing discontent
‘ and disaffection in that part of the island. The
‘ minds of the people in that country, are at present
‘ in great agitation ; the bringing up of so many

‘ gentlemen, on account of a murder committed by
‘ the very dregs of the people, must give them a
‘ good deal of concern; and, we may suppose that
‘ every man’s attention is fixed upon the behaviour
‘ of this house towards their Judges: If we treat
‘ them with any seeming disrespect, if we treat them
‘ in any manner different from that, in which the
‘ Judges of *England* would be treated upon a like
‘ occasion, I am afraid the people in general will
‘ look on it as an indignity offered to the whole
‘ nation, and as a violation of the articles of Union;
‘ therefore, I hope your Lordships will not examine
‘ them at all, or examine them in a manner to
‘ which no exception can be taken.

‘ As I am not of that country, I have spoke with
‘ the more freedom in this debate, because I think
‘ I cannot be suspected of prejudice or partiality. If
‘ I have any, I confess it is upon that side, on which I
‘ think my own honour and the honour of my coun-
‘ try most deeply concerned, which I take to be
‘ in a most exact observance, not only of the words,
‘ but of the spirit and intention of the articles of
‘ Union. We contracted together as nations quite
‘ independent of one another, and by the whole te-
‘ nor of the contract it appears, that the subjects of
‘ both kingdoms are intitled to equal honours, pri-
‘ vileges, and advantages. We have no pretence
‘ to any pre-eminence, but only that those of any
‘ rank in *England* shall have the precedence of those
‘ of the same rank in *Scotland*. This they have
‘ always since the Union allowed us, and I hope we
‘ shall never dispute conferring upon any gentleman
‘ of rank in *Scotland*, those marks of honour or re-
‘ spect, which are bestowed upon gentlemen of the
‘ same rank in *England*. I shall not pretend to
‘ prescribe to your Lordships what method you are
‘ to take for conferring those marks of honour or
‘ respect; as the Judges of *England* sit here by
‘ virtue of the King’s writ, I should think the most
‘ regular

‘ regular way would be, to address his Majesty to
‘ order such writs to be issued, as may be thought
‘ proper, for enabling the three *Scotch* Judges now
‘ attending by your Lordships order, to come and
‘ take their places upon the wool-sacks; but I shall
‘ make no motion for this purpose, till I hear the
‘ sentiments of other Lords upon the same subject.

The answer was in substance as follows:

‘ My Lords, I am sure I am as ignorant as The answer.
‘ the noble Lord who spoke last, how the three
‘ *Scotch* Judges came to be sent for, or what were
‘ the reasons for sending for them. Whether their
‘ attendance was desired, in order that they might
‘ be examined as witnesses in the affair now depend-
‘ ing before us, or in order that they might answer
‘ questions and give their opinions as Judges learn-
‘ ed in the laws of *Scotland*, is what I know no-
‘ thing of; for I was no ways privy to the design
‘ of making such a motion, nor did I know any
‘ thing of it till I heard it made; and I gave my
‘ consent to it, only because I supposed the noble
‘ Duke who made it, had good reasons for sending
‘ for them, which would appear at the proper time
‘ from the questions he should ask, and the cases he
‘ should put to them. I very well remember, that
‘ a few days before the motion was made for or-
‘ dering these three Judges to attend, a motion was
‘ made by a noble Lord near me, for ordering one
‘ of these Judges, I mean the Lord Justice Clerk, to
‘ attend, which motion was upon a division disagreed
‘ to; but if I did not mistake the noble Lord who
‘ made that motion, he did not mean to send for
‘ that gentleman as a Judge, but as an officer of
‘ state, and as one very much entrusted, by virtue
‘ of his office, with the civil government of that
‘ country; he did not mean to send for that gentle-

‘ man to answer any questions about the laws of
‘ *Scotland*, but to answer for his own conduct about
‘ the time *Porteous* was murdered; and as I thought
‘ the conduct of that gentleman was not such as it
‘ ought to have been upon that occasion, I joined
‘ with the noble Lord in his motion; but I then
‘ had, as I generally have, the misfortune to be of
‘ the wrong side of the question.

‘ Notwithstanding the ill fate of this motion at
‘ first, yet, my Lords, it might probably have been
‘ renewed in the course of our inquiry; but in a
‘ few days after, a noble Duke stood up and moved
‘ that this very Lord Justice Clerk, together with the
‘ two senior Judges of the same court, might be or-
‘ dered to attend; which was accordingly agreed to,
‘ and this made the renewal of the first motion un-
‘ necessary. This different method of sending for
‘ him, appeared to me at first as a matter of no
‘ great moment; but now I must say, I wish the
‘ first motion had been agreed to, because in that
‘ case, I believe we should have had no such second
‘ motion; I believe none other of the *Scotch* Judges
‘ would have been sent for; and if none other of
‘ them had been sent for, we should at this time at
‘ least have had no such question as the present be-
‘ fore us; for tho’ I am in my own opinion very
‘ clear in the question now before us, yet I wish
‘ with all my heart no such question had upon this
‘ occasion occurred.

‘ Whether the Judges of *Scotland*, my Lords,
‘ have a right, by the articles of Union, to insist
‘ upon having the King’s writ for being present in
‘ this house, and for having places among the other
‘ Judges upon the wool-sacks; or whether it be ne-
‘ cessary for us to have their attendance, are ques-
‘ tions, which, I think, are not properly now be-
‘ fore us; and therefore I shall not take up your
‘ Lordships time with inquiring into them; but I
‘ am sure no Judge of *Scotland* was ever yet admit-
‘ ted

‘ ted to be present, nor have any of them now a
‘ right to come within this house ; for no man can
‘ come within our bar but by patent, by writ, or by
‘ custom. The Judges of *England* have their pla-
‘ ces upon the wool-sacks by the King’s writ, and
‘ till the Judges of *Scotland* get writs of the same
‘ nature, they have no right to come within our bar,
‘ nor have we, I think, a power to bring them
‘ within the bar, because it would, in my opinion,
‘ be an encroachment upon the King’s prerogative.
‘ Nay, I must go farther, I do not think the King
‘ himself, even with the consent of this house, can
‘ issue out any such writ ; for even the King’s power
‘ of issuing such writs is limited by custom. His Ma-
‘ jesty may by custom, and by his prerogative, create
‘ as many Dukes, Marquisses, Earls, Viscounts, or
‘ Barons as he pleases ; but I do not think he can
‘ grant, or rather create, a new title of honour in
‘ *Great Britain* without an act of Parliament. So
‘ he may by writ call the Judges of *England* to be
‘ assistants to this house : He might likewise accord-
‘ ing to the ancient custom issue writs for his ser-
‘ jeants at law, his counsel learned in the law, and
‘ some other officers, to attend as assistants ; but I
‘ do not think that he can issue writs for the atten-
‘ dance of any Judges, serjeants, counsellors, or
‘ officers, not warranted by ancient custom : For the
‘ issuing of any writ not warranted by custom, there
‘ must be an act of Parliament ; because it is a mat-
‘ ter which concerns the whole nation, it concerns
‘ the other house as well as this ; and any such at-
‘ tempt would certainly meet with opposition from
‘ the other house. Therefore, as the issuing of any
‘ writ for summoning the Judges of *Scotland* to at-
‘ tend in Parliament, was not particularly and ex-
‘ pressly established by the articles of Union, it can-
‘ not now be done but by an act agreed to by all
‘ the branches of our legislature ; and as it cannot
‘ be done without such an act, it would be very im-

‘ proper for us to present to his Majesty any such
‘ address as has been proposed.

‘ If the Judges of *Scotland* had ever had any such
‘ writs as the Judges of *England* have, for summon-
‘ ing them to Parliament, if they had ever had the
‘ honour of having a seat within the bar, they would
‘ then have had a right to claim giving their opi-
‘ nions upon the wool-facks, or to be examined at the
‘ table; but, my Lords, as they have never yet had
‘ any such honour, they have certainly no right to
‘ claim any such privilege; for it is upon the ho-
‘ nour of having a seat in the house, and upon that
‘ only, the privilege of being examined at the ta-
‘ ble depends. To the highest officer in the king-
‘ dom, if he has no seat in the house, we cannot
‘ grant that privilege, without sacrificing the honour
‘ and dignity of the house, and, in my opinion, en-
‘ croaching upon the prerogative of the crown;
‘ and if we should once begin to make any such sa-
‘ crifices, or any such encroachment, God only
‘ knows how far we may be induced or obliged to
‘ go. If we once break through the ancient rule,
‘ if we once begin to grant the privilege of being
‘ examined at the table, to any one officer who has
‘ not the honour of having a seat in the house,
‘ many other officers will claim the same privilege;
‘ and I make no doubt, but the other house would
‘ immediately set up such a claim, with respect to
‘ every one of its own members. The Judges of
‘ *Scotland* now attending, we may compel to appear
‘ before us in such manner as we think proper; but
‘ let us consider, my Lords, we cannot compel the
‘ members of the other house to come to be exa-
‘ mined at all before us; and therefore, if we give
‘ that house a pretence for setting up and insisting
‘ upon any new privilege, we must comply with
‘ it, or we shall be deprived of every evidence any
‘ member of that house may hereafter be able to give,
‘ with

‘ with respect to any affair depending before us ;
‘ for as no member of the other house is obliged
‘ to come to be examined before us, as he cannot
‘ come without the leave of the house to which
‘ he belongs, we may depend on it, that house
‘ will never grant leave to any of their members
‘ to be examined at our bar, after we have once
‘ furnished them with a pretence for being exa-
‘ mined at the Table.

‘ As that, my Lords, of having a seat in the
‘ house, is the only title, upon which any person
‘ can claim being examined at the table, so this is
‘ a rule which we have hitherto most strictly and
‘ most uniformly observed ; in so much, that the
‘ highest officers in the kingdom have been exa-
‘ mined at our bar, without any regard to the office
‘ they bore, and without shewing them the least
‘ respect on that account. It appears upon our jour-
‘ nals, that the commissioners of the great seal were
‘ examined at our bar, and without any more cere-
‘ mony or respect, than would have been shewn to
‘ the most private gentleman in the kingdom. It
‘ likewise appears upon our journals, that an ho-
‘ nourable gentleman was examined at our bar, who
‘ was at that very time first Commissioner to the
‘ Treasury, Chancellor of the *Exchequer*, and not
‘ only a Privy-Counsellor, but, I believe, a Cabi-
‘ net-Counsellor to the King then upon the throne ;
‘ and tho’ that gentleman still possesses the same
‘ employments, tho’ he enjoys as many honours,
‘ and is as much respected by this house, as any
‘ gentleman ever was in *England*, yet, if he were
‘ again to be examined as a witness in any affair
‘ before us, I hope he would, I think he ought to
‘ be examined in the same manner.

‘ This shews that no post a man possesses, no ho-
‘ nour he can have, except that of having had a
‘ seat in this house, can intitle him to the privilege
‘ of being examined at the table ; and the example
‘ of

‘ of the two gentlemen mentioned, who were ad-
 ‘ mitted to read some records at our table, instead
 ‘ of reading them at the bar, in the convention of
 ‘ estates in 1688, is no exception to this rule ; for
 ‘ those two gentlemen, my Lords, had both been
 ‘ Judges, they had both had seats in the house, and
 ‘ the convention were certainly of opinion, they
 ‘ had been illegally turned out, therefore they still
 ‘ looked on them as having a right to a seat in
 ‘ the house ; and having called, or rather desired the
 ‘ favour of them to come and assist the house in read-
 ‘ ing some old records, they could do no less than
 ‘ allow them that privilege, which they were in equi-
 ‘ ty, tho’ not in law, intitled to. But suppose these
 ‘ two gentlemen had had no pretence to have been
 ‘ admitted within the house, that convention was no
 ‘ Parliament, nor was that assembly of Lords pro-
 ‘ perly a house of Lords : They were not considered
 ‘ as such by the nation, because their acts or orders
 ‘ were confirmed by an express law passed in the
 ‘ next ensuing Parliament, for which there would
 ‘ have been no occasion, if the Parliament or nation
 ‘ had looked upon that convention as a legal and
 ‘ regular Parliament ; therefore nothing that was
 ‘ done in that convention can be a precedent for us,
 ‘ and much less can it be a foundation for our
 ‘ breaking thro’ a rule that has been established,
 ‘ and constantly observed ever since we have had
 ‘ any records of Parliament.

‘ I have as great a regard, my Lords, as any
 ‘ man can have for the articles of union ; I have
 ‘ as great a regard for the people of *Scotland*, and
 ‘ would be as loth as any man to give them a just
 ‘ cause of complaint ; but, I have an equal regard
 ‘ for the honour and dignity of this house ; and, I
 ‘ am sure, my shewing a due regard to the house of
 ‘ Peers, of which I have the honour to be a mem-
 ‘ ber, can never give offence to any man of com-
 ‘ mon

‘ mon understanding in *Scotland* ; therefore I am
‘ certain, our shewing a strict regard to our own
‘ privileges on this occasion, can never disoblige any
‘ great number of persons in that country, where
‘ good sense abounds as much among the people, as
‘ it does, I believe, in any country in the world.
‘ Nay, I am convinced, a sacrifice of the honour
‘ and dignity of this house, on any account whatso-
‘ ever, would generally disoblige the people of that
‘ country as well as the people of this ; for, we are
‘ now entrusted with the honour and privileges of
‘ the peerage of both nations ; and, to prostitute
‘ the dignity of this house in any respect, or for
‘ any consideration, would be a prostitution of the
‘ honour and privileges of the peerage of *Scotland*,
‘ as well as *England*.

‘ What benefit or advantage might accrue to the
‘ people of *Scotland*, from having their Judges pre-
‘ sent in this house, what right the people may have
‘ from the intention and spirit of the articles of
‘ Union, to claim that benefit, and what necessity
‘ or occasion this house may hereafter have for the
‘ attendance of some of those Judges, are questions
‘ which I am sure we have not time to inquire into
‘ in this session ; and much less can we inquire into,
‘ or regulate this affair, before it will be necessary
‘ for us to examine the *Scotch* Judges, who are now
‘ attending by our order. I should with all my
‘ heart agree to our inquiring into that affair, if I
‘ thought it possible for us to go thro’ with it be-
‘ fore the end of the session ; I should readily join
‘ in granting the people of *Scotland* all the right they
‘ could claim, nay, all the favour they could expect
‘ upon the issue of such an inquiry ; but I believe it
‘ will be granted, that every one of these questions
‘ is a little doubtful, and of great moment ; there-
‘ fore it will be necessary to inquire into them with
‘ great calmness and exactness, and not to resolve
‘ either of them till after the most mature delibera-
‘ tion.

' tion. It would be necessary to inquire into the an-
 ' cient customs and usages of the Parliaments of
 ' *Scotland*, in order to see whether the Judges of
 ' *Scotland* had any seats as such in their Parliaments ;
 ' several other matters would be necessary to be in-
 ' quired into ; and we shall certainly meet with a
 ' good deal of difficulty in allotting them their pro-
 ' per places upon the wool-sacks, in determining
 ' what number of them should always attend, and
 ' in regulating how they should take their turns in
 ' attending ; for I hope you would not have them
 ' all to attend, so as to make every session of Par-
 ' liament an absolute cessation of all manner of
 ' justice in *Scotland*. Many other difficult questions
 ' would certainly occur in the course of that affair ;
 ' and it would be necessary to manage every one of
 ' them with great tenderness, in order to prevent
 ' any possible breach between the two houses of
 ' Parliament, as well as to prevent raising any fresh
 ' animosity between the two nations. From all
 ' which I must conclude it impossible for us to pass
 ' any bill in this session, for bringing any Judges
 ' from *Scotland* into this house ; and as there is no
 ' method of doing it, but by an act of Parliament,
 ' therefore it cannot be proper for us to enter upon
 ' any such affair at present.

' Thus your Lordships must, I think, all see,
 ' that it is impossible for us to grant those honours,
 ' or to shew that respect to the three *Scotch* Judges
 ' now attending, which some Lords seem to desire,
 ' and which I should willingly agree to, if we could
 ' possibly do it without sacrificing the honour and
 ' dignity of this house, and exposing both ourselves
 ' and our posterity to numberless inconveniences. I
 ' am sorry any question of this nature should have
 ' happened : I am now more sorry, my Lords, than
 ' I was at first, that the motion for bringing up the
 ' Lord Justice Clerk was not agreed to ; because I
 ' believe it would have prevented any such question

‘ as

‘ as the present ; but now the question has occurred,
 ‘ I hope your Lordships will shew a due regard to
 ‘ the honour and dignity of your own house, by re-
 ‘ solving to examine these Judges at the bar, in the
 ‘ same manner as you have examined the greatest
 ‘ officers in *England*, who happened not to have
 ‘ the honour of having a seat among us. As such
 ‘ a resolution can offend no man of common sense,
 ‘ it can raise no general discontent in *Scotland*, nor
 ‘ occasion any disaffection to the illustrious family
 ‘ we have now the happiness to have upon the
 ‘ throne. If any unthinking people in *Scotland*
 ‘ should be misled by the enemies to our happy
 ‘ establishment, it will be easy for the noble Lords
 ‘ of that country we have now among us to unde-
 ‘ ceive them, and to convince them, that no indig-
 ‘ nity or affront was intended by any such resolution.
 ‘ The abilities of all these noble Lords are appa-
 ‘ rent, I am sure their inclination will not be want-
 ‘ ing, and I do not question but their interest and
 ‘ authority among the people of their country are
 ‘ equal to their abilities.

‘ Therefore, my Lords, as no danger is to be
 ‘ apprehended from our examining the Judges now
 ‘ attending, in the usual manner in which all per-
 ‘ sons, who have not a seat in this house, are exa-
 ‘ mined ; and as great danger is to be apprehended,
 ‘ and many inconveniences must necessarily ensue
 ‘ from examining them in any different manner, I
 ‘ shall conclude with this motion, That the Lord
 ‘ Justice Clerk, and the two senior Judges of the
 ‘ court of Justiciary in *Scotland*, now attending
 ‘ according to order, be examined at the bar of
 ‘ this house.’

The reply was in substance as follows, *viz.*

‘ My Lords, I am sorry, not on account of the Reply.
 ‘ present question’s having now happened, nor on
 ‘ account

‘ account of its having happened on this occasion,
‘ but on account of its being made a question at all.
‘ I am sorry the right the *Scotch* nation has to have
‘ their Judges in this house, should ever have been
‘ brought into dispute; for I am sure such a contest
‘ can no way contribute to the welfare of the united
‘ kingdom, or to the establishment of that harmony
‘ which ought to be kept up between the people of
‘ those two kingdoms, which were long separate
‘ and independent, but are now, for the benefit of
‘ both, happily united into one. Unreasonable feuds
‘ and animosities are but too apt to arise between
‘ any two people, who have been long accustomed
‘ to live under distinct governments, and are but
‘ just united under one and the same. The flames of
‘ dissention may cease or disappear, but it is a long
‘ time before the fire can be entirely extinguished;
‘ and therefore, those who have the honour of being
‘ entrusted with the government of any such two
‘ people, ought to be extremely cautious of engag-
‘ ing in any measure, or of bringing any question
‘ upon the carpet, which may blow up those coals
‘ that have been but lately covered with the ashes
‘ of wisdom and good policy, and cannot therefore
‘ be supposed to be absolutely extinguished. If the
‘ bringing up of all, or any of the Judges of *Scot-*
‘ *land*, as assistants to this house, could possibly be
‘ of any prejudice to the people of *England*; or if
‘ it could be looked on as any way dishonourable
‘ to, or beneath the dignity of this house, I should
‘ not at all have been surprized to have heard it con-
‘ tested; but when it can be no way prejudicial to
‘ the people of *England*, nor any way dishonourable
‘ to this house; when it may so greatly contribute
‘ to the advantage of the people of *Scotland*; and
‘ when it appears in itself so necessary, for enabling
‘ us to determine many questions that may come
‘ before us; I confess I am not only surprized, but
‘ I am sorry to find it so much as contested.

‘ I re-

‘ I remember, my Lords, the first motion in this
‘ house, relating to any of the *Scotch* Judges, was
‘ for bringing up the Lord Justice Clerk only. I
‘ was against that motion, for the very reason, it
‘ seems, which made other Lords for it. I was
‘ against it, because it seemed to be a motion for
‘ bringing him up as a criminal, and not as a Judge ;
‘ and I was against his being brought up as a criminal,
‘ because there was nothing then appeared before us,
‘ which could give the least foundation for such an accusation.
‘ I agreed with the motion for bringing him and the two senior Judges of the
‘ same court up, because I knew your Lordships had a power
‘ of requiring the attendance of any of the Judges of *Scotland*,
‘ as well as you may require the attendance of any of the
‘ Judges of *England* ; and I have always observed, that no
‘ such order has ever been refused, when any Lord of this
‘ house pleased to ask for it. These, my Lords, were my
‘ reasons, and I still think they were good reasons, for
‘ agreeing to the second motion, and for disagreeing to the
‘ first. But suppose the first had been agreed to by the
‘ house, it could not have prevented the second, because
‘ any Lord of this house had a power to desire, that any
‘ of the Judges of *Scotland* might be ordered to attend, in
‘ order to explain some doubts that had occurred to him
‘ relating to the law of *Scotland* ; and surely no Lord, who
‘ wanted to have such doubts explained, would have
‘ trusted the explanation of them to a Judge, who had been
‘ brought up as a criminal. Again, suppose the Lord Justice
‘ Clerk had been brought up by himself alone, suppose he had
‘ been brought up, not as a Judge, but as a criminal, the same
‘ question would have occurred ; because, as he is a
‘ *Scotch* Judge, and one of the chief of them too, he must
‘ have been considered as such, till some resolution, at
‘ least of this house, had passed against him : Therefore, in
‘ his first examination he might have

‘ have insisted, he ought to have insisted, on his be-
‘ ing examined at your table ; for I am sure your
‘ Lordships would not have made a new precedent
‘ for condemning a man without hearing him. Our
‘ having agreed to the first motion relating to any
‘ of the *Scotch* Judges, could not therefore have pre-
‘ vented the present question ; there was no way of
‘ preventing it, but by a previous, and what I must
‘ call a prudent care, to give the Judges of *Scotland*
‘ what I think of right belongs to them, I mean
‘ their places upon the wool-sacks, before you re-
‘ solved to desire their attendance, either as Judges,
‘ as witnesses, or as criminals. Their conduct as
‘ Judges has been already approved, or at least not
‘ condemned by your Lordships ; and if any of your
‘ Lordships are of opinion the Lord Justice Clerk
‘ has misbehaved in any other part of his duty, you
‘ have him now attending ; you may revive the
‘ committee, and may proceed to inquire into his
‘ conduct ; but before you begin to proceed against
‘ him as an officer of state, I hope you will grant
‘ him what I think of right belongs to him as a
‘ Judge of *Scotland*.

‘ The right, my Lords, which the Judges of
‘ *Scotland* have, by the articles of union, to insist
‘ upon having the King’s writ for being present in
‘ this house, and for having places among the other
‘ Judges upon the wool-sacks, or rather the right
‘ which the people of *Scotland* may claim, of having
‘ some of their Judges always attending as assistants
‘ to this house, is the first and chief question now
‘ before us ; because, without first determining this,
‘ you cannot determine the other, as to the place in
‘ which they are to be examined ; nay, the deter-
‘ mination of the second, determine it which way
‘ you will, must be a full and a final determination
‘ of the first. If the Judges or people of *Scotland*
‘ have any such right by the articles of union, they
‘ have had it ever since those articles were agreed
‘ to ;

‘ to ; and if they have had such a right ever since
‘ that time, the Judges now attending have had an
‘ undoubted right to seats in this house for many
‘ years, tho’ they never hitherto had occasion to
‘ take possession of them. It has never been esta-
‘ blished as a rule, not to admit any person to be
‘ examined within the bar, but such as were actually
‘ in possession of a seat in the house. On the contra-
‘ ry, any sort of right to a seat in the house, has al-
‘ ways been looked on as a right that intitles a man
‘ to be examined within the bar.

‘ The famous case of the Lord *Forrester*, who was
‘ a Lord of *Scotland*, but not one of the sixteen, is
‘ a full proof of this rule ; and the case of the two
‘ gentlemen, who were called to read some records
‘ to this house in the year 1688, and who were for
‘ that purpose admitted to your table, is a proof,
‘ that an equitable right to a seat in the house is as
‘ good as a legal. Those two gentlemen had, it is
‘ true, been Judges, and the convention, as well as
‘ most of the nation probably, and I think rightly,
‘ were of opinion, they had been unjustly turned out
‘ from being Judges ; but suppose they were unjust-
‘ ly turned out, it is certain they had then no legal
‘ title to a seat, nor were they in possession of any
‘ seat in the house ; the only reason for admitting
‘ them to the table, was on account of the equitable
‘ title they had to seats upon the wool-sacks. That
‘ convention indeed was not at first a Parliament,
‘ but I am sure none of your Lordships will question
‘ their power, nor will this house, I hope, ever re-
‘ fuse to admit any proceeding of theirs as a good
‘ precedent in any case of the same nature. It was
‘ not for any deficiency of power that their acts and
‘ proceedings were confirmed by the next Parlia-
‘ ment ; that act of confirmation was passed only to
‘ satisfy the unreasonable scruples of some men, and
‘ upon this maxim, that abundance of law never
‘ breaks the law ; for surely no man imagines that

‘ any of the acts or resolutions of the first Parlia-
‘ ment after the revolution, received any new or
‘ additional force from this act of confirmation,
‘ which was passed in the second. And I must ob-
‘ serve, that the precedent now under our considera-
‘ tion, was not a precedent made by the convention,
‘ while it continued a convention, but after it was
‘ declared to be a Parliament; so that it is a prece-
‘ dent which deserves as much regard as any prece-
‘ dent since that time.

‘ Now, my Lords, as your resolving to examine
‘ the *Scotch* Judges at your table, if you do come to
‘ any such resolution, will be founded upon the right
‘ they have to seats within your house, therefore
‘ their being examined in such a manner, can never
‘ afford a pretence for any man in the kingdom to
‘ be examined at your table, if he has no manner of
‘ right to a seat within your house: Consequently
‘ there is no ground for saying that your coming to
‘ any such resolution, or your examining them in
‘ any such manner, can subject you or your poste-
‘ rity to any one inconvenience. As for the com-
‘ missioners of the Great Seal, the first commissioner
‘ of the Treasury, the chancellor of the *Exchequer*, or
‘ any privy or cabinet counsellor, I am surprized to
‘ hear it said, that your Lordships having examined
‘ all or either of them at your bar, can be an argu-
‘ ment for examining the Judges of *Scotland* in the
‘ same manner. Is there any one of these officers,
‘ that, as such, has the least pretence to a seat in this
‘ house? Therefore, according to the rule that has
‘ been established, and which seems to be agreed on
‘ by every one of your Lordships, they had no pre-
‘ tence to be examined within the bar; but from
‘ that very rule, the Judges of *Scotland* have a pre-
‘ tence to be examined within the bar, because they
‘ claim, from the articles of union, a right to sit in
‘ the house as assistants, in the same manner as the
‘ Judges of *England* do; and if they have but an
‘ equitable

‘ equitable right, it will certainly be not only a
‘ piece of injustice, but an indignity done to them,
‘ to examine them at your bar; for which reason
‘ their claim of right ought to be first determined,
‘ because upon that, and upon that only, the other
‘ question must necessarily depend.

‘ That the Judges of *Scotland* ought to be sum-
‘ moned as assistants to this house, that the people
‘ of *Scotland* have a right to have some of their
‘ Judges present in this house, appears, my Lords,
‘ not only from the two articles that have been
‘ mentioned, by which it is provided, *That the united*
‘ *kingdom shall be represented by one Parliament; and*
‘ *that the subjects shall have a communication of all ad-*
‘ *vantages not excepted in the articles;* but likewise
‘ from the 18th and 19th articles of the union, by
‘ which it is expressly provided, *That all matters of*
‘ *private right shall be determined by the laws of Scot-*
‘ *land, and before the proper courts there;* so that
‘ tho’ there lies an appeal to this house, yet in all
‘ such appeals we are, by the articles of union,
‘ obliged to determine according to those laws: If
‘ we have no Lord nor assistant in the house, who
‘ can inform us what those laws are, and explain
‘ those passages which may appear a little dark and
‘ doubtful? From these articles, and indeed from
‘ the whole tenor of the treaty, this right appears
‘ so manifest, that I am surprized as much to hear
‘ any doubts made about it, as I am to hear so
‘ many difficulties started about the manner of mak-
‘ ing it effectual.

‘ I shall agree, my Lords, that no man can come
‘ into this house but by his Majesty’s writ of sum-
‘ mons, and in issuing of such writs it may be true,
‘ that the power of the crown is limited by custom.
‘ But with respect to that which depends upon the
‘ articles of union, the power of the crown can nei-
‘ ther be limited nor directed by the custom of *Eng-*
‘ *land*, or the custom of *Scotland*; it can be directed

‘ by nothing but the articles themselves, and as
‘ those articles made it necessary to have the Judges
‘ of *Scotland* called to the assistance of this house, as
‘ well as the Judges of *England*, surely the King
‘ got by those articles a power to issue writs for
‘ calling them accordingly. Suppose then a writ of
‘ summons should be directed to every one of them,
‘ it could be attended with no inconvenience ; it
‘ would not be necessary for them all to come up
‘ here, and to attend the whole time of the session ;
‘ such as pleased only would come, unless your
‘ Lordships should, upon any great occasion, such
‘ as the present, make an express order for the at-
‘ tendance of all or some of them : The issuing of
‘ such writs could not therefore occasion any sur-
‘ cease of justice in *Scotland*, or impede or interrupt
‘ the proceedings at law there, no more than the
‘ issuing of such writs to the Judges of *England* in-
‘ terrupts or prevents the course of proceedings at
‘ the assizes, which are held in all parts of *England*
‘ as regularly when the Parliament is sitting, as when
‘ it is not.

‘ For my part, my Lords, I cannot think there
‘ is the least occasion for any new act of Parliament
‘ in this case. The act of Parliament, which rati-
‘ fies and confirms the articles of union, has certain-
‘ ly already given to his Majesty a full power to do
‘ that, without which some of those articles cannot
‘ possibly be complied with or fulfilled ; and tho’
‘ his Majesty has not yet executed that power, tho’
‘ there has never been before now a necessity for his
‘ executing that power, yet he may certainly exe-
‘ cute it whenever he thinks proper, or as soon as this
‘ house shall, by an address, desire him to do so. But,
‘ suppose a new act of Parliament were really neces-
‘ sary, that act of Parliament can depend upon none
‘ of the ancient customs of the Parliaments either
‘ of *Scotland* or *England*, nor can any part of it be
‘ founded upon any of those ancient customs or
‘ usages ;

‘ usages ; the act to be passed can be founded upon
‘ nothing but the articles of union, and the necessity
‘ there appears to be for having the Judges of *Scot-*
‘ *land* called as assistants to this house, in order that
‘ we may be enabled to do justice to the people
‘ of *Scotland*, according to their own laws, which
‘ is what we are bound to do, by the articles of
‘ union. The method of holding Parliaments in
‘ *Scotland* was quite different from the method now
‘ established for holding the Parliaments of *Great*
‘ *Britain* : There the Lords and Commons sat to-
‘ gether in one house, and as the Judges were ca-
‘ pable of being chosen by any county, city, or bo-
‘ rough in that kingdom, most of them were gene-
‘ rally members of Parliament, so that there was no
‘ necessity or occasion for calling them by writs as
‘ assistants. With respect therefore to any new act of
‘ Parliament to be passed on this occasion, we can
‘ take no direction from any custom or usage of the
‘ Parliaments of *Scotland*, and consequently can have
‘ no occasion to inquire into any of them. We can
‘ have regard to nothing but the articles of union,
‘ and the rights and privileges, or obligations, which
‘ naturally and necessarily arise from them : This
‘ can require no tedious inquiry, nor can any diffi-
‘ culty arise in the drawing up or passing such an act,
‘ but what may be soon got over, if no partiality or
‘ animosity be allowed to enter into the affair, which
‘ I am sure we have not the least ground to fear in
‘ this house ; and as the other house is very little
‘ concerned in the question, it is to be hoped they
‘ would agree to what we should think proper with-
‘ out any great difficulty. For this reason I must
‘ think, that if an act of Parliament be necessary for
‘ empowering his Majesty to summon the Judges of
‘ *Scotland* as assistants to this house, such an act may
‘ be passed, the writs may be issued, and the Judges
‘ may have taken their places upon the wool-sacks,

‘ not only before the session is at an end, but before
‘ it may become absolutely necessary for us to exa-
‘ mine them ; and then the examining of them can
‘ bring us into no dilemma, nor into the danger of
‘ committing what may be thought a breach of the
‘ articles of union, or of agreeing to that which may
‘ be thought a sacrificing the honour and dignity of
‘ the Peerage of *Great Britain*.

‘ But, my Lords, if your Lordships be of opi-
‘ nion, that all or some of the Judges of *Scotland*
‘ ought to be called as assistants to this house, if you
‘ are of opinion, the people of *Scotland* have a right
‘ to insist upon their Judges being called as assist-
‘ ants to this house, can the supposed difficulty you
‘ will meet with in inquiring into the affair, or get-
‘ ting an act of Parliament passed, be any reason
‘ for your not attempting it? Suppose you should
‘ not be able to bring such an affair to perfection
‘ in this session, yet your entering upon it, and mak-
‘ ing some progress, will certainly pave the way,
‘ and make it easy to pass a proper bill the next ses-
‘ sion. Suppose this right which the Judges of *Scot-*
‘ *land*, in the name of themselves and the whole
‘ people of *Scotland*, now lay claim to, were a great
‘ deal more doubtful than I think it is, yet it must
‘ be allowed to be a matter of right ; and will your
‘ Lordships proceed to determine that right, or to
‘ determine any collateral question, by which the
‘ principal question will at least receive a dangerous
‘ blow, without hearing parties either by themselves
‘ or their counsel upon the right they contend for?
‘ This is so contrary to your Lordships known ju-
‘ stice and equity, and to your usual method of
‘ proceeding in cases of the like nature, that I can-
‘ not allow myself to imagine you will agree to it.
‘ If you think you have not time to inquire into
‘ this affair, or to hear parties upon the matter of
‘ right contended for, some expedient may be found
‘ for putting it off, or for avoiding any thing that
‘ may

‘ may look like a decision of the affair. What
‘ questions the noble Lords may have to put to
‘ the Judges now attending, I do not know ; what
‘ lights any Lord can expect from them, I cannot
‘ comprehend ; but if those questions are not very
‘ material, if the lights expected from them are not
‘ thought to be of great importance, I wish the no-
‘ ble Lords would pass from the order made for
‘ their attendance, and give over all thoughts of
‘ putting any questions to them, or of calling them
‘ either to the bar or the table for that purpose ; for
‘ tho’ we have made an order for their attendance,
‘ tho’ they are come up here in obedience to that
‘ order, yet we may pass from, or delay calling
‘ them till the session is expired ; and I must ob-
‘ serve, that if your Lordships should order them
‘ to the bar, and it should then appear you had no
‘ matters of great importance to interrogate them
‘ about, the whole people of *Scotland* will conclude,
‘ you called them to the bar for no other purpose,
‘ but to put an indignity upon them.

‘ I am glad to hear every noble Lord that has
‘ spoke in this debate profess such a regard for the
‘ articles of union, and for the people of *Scotland* ; I
‘ am convinced their Lordships have all spoke sin-
‘ cerely upon this occasion : This I am convinced
‘ of, because I have the happiness to be personally
‘ acquainted with their Lordships ; but, my Lords,
‘ the people of *Scotland*, who hear nothing of what
‘ is said, but of what is done, will, I am afraid,
‘ conclude, that we have no regard for them, and
‘ as little for the articles of union, if they should
‘ hear we have determined a right pretended to be
‘ founded upon those very articles, without so much
‘ as hearing any of the parties concerned, in vindi-
‘ cation of the right they claim. They look up-
‘ on themselves as intitled to all the advantages,
‘ privileges, and honours, not expressly excepted in

‘ the articles of union, which the people of *England*
‘ are intitled to ; and it will be impossible to per-
‘ suade them, no injustice has been done them, nor
‘ any indignity put upon them, when they hear,
‘ that their Judges were kept standing at your Lord-
‘ ships bar, while the Judges of *England* were sit-
‘ ting within the house. This is a distinction, my
‘ Lords, which it is impossible to palliate or ex-
‘ cuse ; and if you design to keep up that harmony
‘ and unanimity which ought to be kept up be-
‘ tween the two nations, so lately made one, I am
‘ sure you should avoid, as much as possible, all
‘ national distinctions. If the people of *Scotland*
‘ should think themselves injured, they cannot, it
‘ is true, vindicate themselves as a nation ; they
‘ must put themselves upon a footing as rebels
‘ against a legal established government, if they
‘ should attempt to oppose any thing resolved on
‘ by the Parliament of *Great Britain* ; but this is
‘ owing to the great confidence they put at the
‘ time of the union, in the honour and justice of the
‘ people of *England* ; for they could not then sup-
‘ pose that the number of members they were to
‘ send to either house, could prevent that house’s
‘ being guilty of any partiality or injustice towards
‘ them ; and I hope your Lordships will always be
‘ extremely cautious of giving the people of *Scot-*
‘ *land* the least cause to repent of that confidence
‘ they then put in the honour and justice of their
‘ neighbours of *England*.

‘ One of the chief causes, my Lords, which pro-
‘ duced the union was, we all know, the establish-
‘ ment of the Protestant succession. The settlement
‘ of the crown upon the present illustrious family,
‘ had been established by act of Parliament in *Eng-*
‘ *land*, long before the union, but the *Scotch* Par-
‘ liament could never be induced to agree to it ; on
‘ the contrary, they seemed to be taking measures
‘ to prevent its being forced upon them. This made
‘ every

every wise man in *England* as well as *Scotland*, more fond of an union than otherwise they would have been, and made them more heartily and more cordially to bring it about. Accordingly, by the very second article of the union, the succession was settled upon the present illustrious family, and by virtue of that settlement we have now the happiness to see his present Majesty in possession of the crown of the united kingdoms of *England* and *Scotland*. It is therefore the business, it is the duty of every man who is a true friend to the illustrious family now upon the throne, to endeavour as much as he can, to render the union agreeable to the people of *Scotland*; because, if they should ever begin to repent of having agreed to the union, they will naturally begin at the same time to repent of having agreed to the succession; if they should ever begin to entertain a desire of being rid of the one, they will of course begin to entertain a desire of getting rid of the other; and if this should ever come to be the desire of the people of that part of the Island in general, it may, in case of a war, be of the most dangerous consequence to the present royal family. For this reason I think your Lordships should avoid every thing that may look like doing an injustice to the whole people of *Scotland*, or that may look like making an invidious distinction between that people and the people of *England*; and as I think the making of any difference between the Judges of *Scotland* and the Judges of *England*, or the shewing of any less respect to the former than you usually do to the latter, will be looked on, by the whole people of *Scotland*, not only as an invidious distinction between the two nations, but as a real indignity put upon them, therefore I hope it will be avoided, if possible; which may very easily be done, if

your

‘ your Lordships have no matters of very great importance to interrogate these Judges about.

‘ But, suppose, my Lords, you have questions of the utmost importance to put to them; suppose you think it absolutely necessary to examine them in relation to the affair of *Porteous*; and suppose you think it absolutely impossible for you now to take time to inquire, whether they have any right, by the articles of union, to be called as assistants to this house, and as such to have places upon the wool-sacks, according to their ranks, next to the Judges of *England*; yet as this claim of theirs is a matter of right, as it is a matter of right in which the people of *Scotland* have a very deep concern, I hope your Lordships will not determine it without hearing parties very fully upon it; and therefore, if you now come to a resolution to examine them at your bar, I hope you will add a saving clause to that resolution, saving and reserving to the Judges of *Scotland* all manner of right which they may have, or lay claim to by the articles of union, for being called by his Majesty’s writ as assistants to this house, and for being placed as such upon the wool-sacks according to their ranks, next to the Judges of *England*.

‘ To conclude, my Lords, I wish this affair had been expressly and particularly regulated by the articles of union; I wish a proper clause had been added, expressly empowering his Majesty to call the Judges of *Scotland* as assistants to this house, and to place them upon the wool-sacks according to their ranks, next to the Judges of *England*: If it had been then thought of, I am convinced it would have been readily agreed to; considering the circumstances the two nations were then in, I am sure none of your Lordships can think this piece of respect, which could not possibly be of any disadvantage to the people of *England*, and which was so necessary for the people of *Scotland*,
‘ would

‘ would have prevented an union so much for the
‘ advantage of both nations. But in treaties of such
‘ a nature, it is impossible to foresee, or to provide
‘ for all the questions that may afterwards occur ;
‘ the spirit and intention of the treaty must be con-
‘ sidered, in order to form from thence a rule for
‘ the deciding any question that may afterwards
‘ arise, which does not appear to have been express-
‘ ly provided for in the treaty ; and to me it ap-
‘ pears evident that, by the spirit and whole tenor
‘ of the treaty of union, it was intended, that no di-
‘ stinctions should afterwards be made between the
‘ people of the two nations, or between any rank
‘ of men in one, and the same rank of men in the
‘ other, but such as were expressly regulated in the
‘ treaty ; or that any advantages should be enjoyed
‘ by the people of the one country, but what should
‘ be enjoyed by the people of the other, unless
‘ otherwise stipulated in the treaty ; and as it is a
‘ very great advantage to the people of *England*,
‘ to have their Judges called as assistants to this
‘ house, your Lordships must allow the people of
‘ *Scotland* are intitled to the same advantage by the
‘ articles of union ; you must allow that no distinc-
‘ tion ought to be made between the Judges of the
‘ supreme courts in *Scotland*, and the Judges of the
‘ supreme courts in *England* ; therefore, I think,
‘ you cannot agree to the resolution that has been
‘ proposed, I hope you will not agree to it, without
‘ the saving clause I have mentioned.’

This was the substance of the debate upon this occasion ; and the question being at last put upon the motion for resolving as before-mentioned, to examine the *Scotch* Judges at the bar, it was, upon a division, carried in the affirmative, by 48 to 37. Then the house being resumed, the Lord *Delawar*, who was in the chair, reported the resolution of the committee, which, after some little debate, was

was carried in the affirmative, upon a division as follows, *viz.*

Contents present 47
Proxies 16 } 63

Not Contents present 36
Proxies 15 } 51

After which the three *Scotch* Judges were called to the bar, where they appeared in their robes, and some few questions were asked them.

Speakers up-
on the ques-
tion about
examining
the *Scotch*
Judges.

The principal speakers in the debate for calling the *Scotch* Judges to the bar, were, the Earl of *Abingdon*, the Earl of *Aylesford*, the Earl of *Chesterfield*, the Earl of *Strafford*, the Earl of *Winchelsea*, the Lord Chancellor, Lord *Delawar*, and Lord *Bathurst*; and the principal speakers against it, were, the Duke of *Argyle*, the Earl of *Ilay*, the Duke of *Newcastle*, the Lord *Hervey*, the Duke of *Athol*, the Earl of *Crawford*, and the Earl of *Findlater*.

Proceedings
in the house
of Lords on
Porteous's
bill.

The Lord Provost and the city of *Edinburgh* having been admitted to be heard by their counsel against the bill, upon its being read a second time in the house of Lords, that hearing began on *Wednesday, May 4*, and was continued every day till *Saturday the 7th*, and then the bill was committed for *Monday*; it passed in the committee; and on *Wednesday, May 11*, was read a third time, and passed in that house, on a division, 54 *Contents*, to 22 *Not Contents*.

In the debate on this affair, in the house of Lords, the following speeches were made, *viz.*

Duke of *Ar-
gyle's* speech.

‘ My Lords, I shall be far from saying any thing
‘ that may seem to favour the actors of a crime,
‘ than which, from the circumstances of barbarity
‘ that attended it, and from the contempt of Ma-
‘ jesty it expressed, no age or country ever pro-
‘ duced a blacker; neither shall I pretend to defend
‘ the abilities, as a magistrate, of the unfortunate
‘ person who is the subject of part of the bill now
‘ depend-

depending ; but it is my opinion, that if any thing
can be justly charged upon him from the evidence
that has been laid before this house, it is not trea-
chery, but folly, and that he rather is an object of
pity than censure. I must, however, take notice
of what has been said, with respect to the lenity
of this house, in the present proceedings against
the Lord Provost and citizens of *Edinburgh*. Re-
ally, for my own share, I cannot think of a pro-
ceeding more harsh or unprecedented than the pre-
sent ; as I believe there is no instance of the whole
weight of Parliamentary indignation (for such, my
Lords, I call a proceeding by a bill *ex post facto*)
falling upon any single person, far less upon any
community, for crimes that are within the reach
of the inferior courts of justice to punish ; for this
reason, my Lords, I say, that if the Lord Pro-
vost and citizens of *Edinburgh* should suffer in the
terms of the present bill, the proceeding against
them is so far from deserving the name of Lenity,
that they will suffer by a cruel, an unjust, and a
fantastical proceeding. — A proceeding, my
Lords, of which very bad use may be made, if
ever this nation should have the misfortune to fall
under a partial and a self-interested administration.
That part of the present bill which affects the
citizens of *Edinburgh*, ought to be the principal
concern of every nobleman in this house. For,
tho' we may determine the properties of private
persons, and may adjust the privileges of commu-
nities, we cannot infringe the rights of nations. To
pass the present bill, my Lords, in the shape it
is now in, is what I will be bold to say, and I say
it of my own knowledge and of my own experi-
ence (but with all the respect that is due to this au-
gust assembly) it is what even the whole legislative
body cannot do. — I was in the Parliament of
Scotland when that part of the treaty of union re-
lating to the privileges of the royal burghs was
settled,

‘ settled, and, my Lords, these privileges were put
‘ upon the same footing with religion, that is, they
‘ were not alterable by any subsequent Parliament
‘ of *Great Britain*. It is true, some moved, that
‘ they should be submitted to such alterations, as
‘ the Parliament of *Great Britain* should in time
‘ coming, for good reasons, think fit to make. But,
‘ my Lords, after a full debate, it was carried, that
‘ they should not be subject to any such alterations.
‘ The nation of *Scotland*, in all the proceedings at
‘ that time, treated with *England* as an independent
‘ and free people; and as that treaty, my Lords,
‘ had no other guarantee for the due performance
‘ of its articles, but the faith and honour of a *British*
‘ Parliament, it would be both unjust and ungene-
‘ rous, should this house agree to any proceeding
‘ that has the least tendency to infringe it.

‘ That many, nay most of the articles of the
‘ treaty of union, are subject to be altered by a
‘ *British* Parliament, I shall not deny. Nor shall I
‘ dispute, but that if the people, or if the majority
‘ of the people of *Scotland* should, for good reasons,
‘ petition for an alteration in this, or any other ar-
‘ ticle, I say, I shall not dispute but that this house
‘ might, and ought to make the desired alteration:
‘ But I believe no Lord in this house will say, this
‘ is the present case.

‘ It has been much insisted on, that the gate in
‘ question must necessarily be demolished, in order
‘ to leave to the King’s forces a free entry into the
‘ city of *Edinburgh* when any exigency requires them.
‘ No one, my Lords, is more sensible than I am,
‘ how reasonable it is that the King’s forces should
‘ have free access, to suppress every commotion of
‘ the like nature with that now under our considera-
‘ tion. But I believe I can propose a method, by
‘ which every Lord in this house will be satisfied
‘ how that end may be answered more effectually,
‘ and without any of the bad consequences attending
‘ it,

‘ it, that probably will attend the demolishing the
‘ gate in question.

‘ The castle of *Edinburgh*, my Lords, is the
‘ King’s house, and no one can doubt his Majesty’s
‘ power to send as many forces into it as he pleases ;
‘ should we therefore petition his Majesty, that the
‘ barracks may be enlarged, and the number of
‘ troops in garrison increased, there is no room to
‘ question but that the ends proposed will be more
‘ effectually answered than they can be by any expedient laid down in the present bill.

‘ The Nether-bow-gate, my Lords, stands in a
‘ very narrow street ; near it are always a great
‘ number of coaches and carts. Let us suppose another insurrection is to happen ; in that case, my
‘ Lords, should the conspirators have the presence
‘ of mind to barricade the street with these carriages,
‘ as may be done by a dozen of fellows, I affirm,
‘ and I appeal for the truth of what I advance to any
‘ man of my trade, who knows the situation of the
‘ place, if 500 men may not then keep out 10,000,
‘ for a longer time than that in which the mob executed their bloody designs upon *Porteous*. Besides,
‘ my Lords, I think it has been made out by the
‘ gentlemen against the bill, that the gate in question is absolutely necessary for collecting the city
‘ revenue, and for preventing smugglers. In that
‘ case, my Lords, I don’t see how this gate can be
‘ taken away without damaging not only the revenue of the city, but that of the crown. Thus much,
‘ my Lords, I have thought fit to say, with respect
‘ to that part of the bill that relates to the demolishing of the city gate.

‘ I shall now proceed to the other part, I mean
‘ that of taking away the guard ; but perhaps it will
‘ be necessary to make some remarks on the right by
‘ which the city of *Edinburgh* enjoys this guard : It
‘ was confirmed to them by a Parliament of *Scotland*, under the immortal deliverer of our religion
‘ and

‘ and liberties, King *William* ; a Parliament, my
‘ Lords, than which no body of men ever shewed
‘ greater zeal in acquiring, or greater resolution in
‘ defending, these invaluable blessings. And such
‘ was their sense of the services of the town of *Edin-*
‘ *burgh*, that it is inserted in the preamble of the
‘ bill, that the said guard was granted to the citizens
‘ of *Edinburgh*, on account of the zeal they disco-
‘ vered when religion and liberty were at stake.
‘ Will such a Parliament, my Lords, and such a
‘ King, plead nothing in their behalf ; and must
‘ one wrong step, allowing it to be such, forfeit the
‘ merit of a long tract of services ? When I was ho-
‘ noured with the command of the forces in *Scotland*
‘ against the rebels, in the year 1715, and at the
‘ head of those numerous armies and squadrons,
‘ for so our *Gazettes* represented them to be, which
‘ amounted to about 1700 men, I had information
‘ that a body of the rebels had ventured to *Leith*,
‘ and that they designed to attack the city of *Edin-*
‘ *burgh*. Tho’ I had not a troop with me at that
‘ time, I saw this very guard, which you are to
‘ break by this bill, draw out, and march down
‘ against the rebels in as good order, and with as
‘ good a shew of resolution as I ever beheld in any
‘ body of men. The effect was, that the rebels al-
‘ tered their design, and advanced no farther ; thanks
‘ to them they did not, they having the odds of five
‘ fighting men to one. This was not all the service
‘ they did at that important juncture ; the rebels and
‘ gained over a serjeant of the garrison in the castle
‘ of *Edinburgh*, who promised to assist them in sur-
‘ prising the garrison ; and had it not been that the
‘ ladders they made use of proved too short, they
‘ must have succeeded : Which would at that time
‘ have given a great blow to the King’s affairs in
‘ that country ; and it was intirely owing to the
‘ vigilance of the city guard that the conspirators
‘ were discovered, and many of them seized.

‘ But,

‘ But, my Lords, setting aside all these considerations, I think there are some of a private nature, that ought not a little to influence your Lordships in the present affair. You have examined into the conduct and usefulness of the city guard of *Edinburgh*: You have found that, on many occasions, it has been of great use; nay, in the present unhappy case, your Lordships seem to approve of the conduct of the gentleman whose turn it was to command the night in which *Porteous* was murdered. Now, my Lords, I would gladly know why the other two companies which composed that guard, and with whom no fault is pretended to be found, should be equal sufferers with those who were that night upon duty, whom the present bill supposes to have been guilty, and why the Captain commanding on that night, who appears not to have been guilty, should have his bread taken from him? Some of your Lordships have been pleased to mention the great lenity with which this bill is attended; but where the lenity is of taking a gentleman’s bread from him, after having done his duty honestly, I cannot comprehend; at least, if I may judge of another by myself, I was so far from taking it as a favour, that I looked on it as the greatest hardship I ever met with in the whole course of my life, when I was obliged to resign to another a commission in which I had honestly and faithfully served. Some regard, my Lords, ought likewise to be had to private men, who are to be deprived of their bread; and the present bill makes no provision for them, though it appears by the evidence laid before your Lordships that they were intirely innocent.——Nor is any care taken by it of having the city of *Edinburgh* provided with another watch; and, my Lords, I conceive there is no city, of an equal largeness with that of *Edinburgh*, that can be without a regular watch of some kind or other.

‘ I must now observe, my Lords, that great zeal
‘ has appeared in this house to pass the present bill
‘ into an act, which is to affect a person, whose on-
‘ ly crime seems to have been, that he was unfit for
‘ a trust that requires an active and a vigilant man ;
‘ and against the citizens of *Edinburgh*, who are on-
‘ ly guilty in not foreseeing what it was impossible
‘ for them to have foreseen ; and yet, my Lords,
‘ no bill has been brought in to bring the persons who
‘ have been guilty of that barbarous murder to ju-
‘ stice : These, my Lords, ought to be the imme-
‘ diate objects of the resentment of this house ; for
‘ where such desperate Enthusiasts are harboured, no
‘ state can be secure of its peace, and no private per-
‘ son of his property. Great insinuations, my Lords,
‘ have been made, that this and many other tumults
‘ that have frequently happened of late in the united
‘ kingdom, have been owing to the oppression of
‘ the magistrate : For my part, my Lords, I have
‘ heard of no particular acts of oppression, and I be-
‘ lieve I may venture to say, neither has any of your
‘ Lordships, as we must all have done if any such
‘ had been. But, my Lords, can riots proceed
‘ from no other cause but from the oppression of the
‘ magistrate ? Have people no other motives to re-
‘ bellion but the suggestions of despair ? I believe,
‘ my Lords, we may find, from the history of past
‘ times, that they have always had, and from the
‘ experience of the present, that they still continue to
‘ have other motives.

‘ This riotous and rebellious spirit of theirs,
‘ does not proceed from any oppression in the go-
‘ vernors or civil magistrates of that country, as has
‘ been strongly insinuated, but from a few fanatical
‘ preachers, lately started up in that country, who
‘ by their sermons and otherwise, instil into the
‘ minds of the vulgar and ignorant, such enthusia-
‘ stical notions as are inconsistent with all govern-
‘ ment, by making sedition and rebellion a princi-
‘ ple

‘ ple of their religion. From this cause I am inclined to think, the tumult at *Edinburgh* proceeded; and to this is owing that ill-judged fidelity of the guilty towards one another, by which the secret was, before the execution, made impenetrable, and by which the discovery of the persons concerned has since been rendered impossible. But of the inhabitants of *Edinburgh*, I am convinced, there are very few tainted with such principles, because they seldom or never hear any such doctrines.

‘ I have now, my Lords, given my opinion with respect to the present bill, so far as I have had opportunity to know any thing of its tendency, or the evidence upon which it is founded; and I think, that if we consent to the passing it into a law, at least in the shape it is now in, we shall do what is both imprudent and unjust.’

The Lord *Hardwick* spoke next to the following effect :

‘ My Lords, As this house has agreed to the preamble of the bill now before us, I believe it will be found very extraordinary, if any thing were inserted in the body of the bill that should contradict the preamble. This we must do, if we agree to the motion made by the noble Peer who spoke last; and thus we shall send down to the house of Commons a bill of pains and penalties, where no pains and penalties are implied; or else a new bill must be brought in, a new preamble drawn up, and a new course of evidence gone through, which at this time of the session would be impracticable. Besides all this, if the expedient proposed by the noble Peer was to be followed, if by suffering the city gate to remain as before the riot happened, the barracks of the castle were to be enlarged, so as to contain a greater number of soldiers in garrison

Lord *Hardwick's* speech.

‘ there ; we must come to a resolution of addressing
‘ his Majesty for that purpose ; and by these means
‘ all that we have been doing in this affair, for near
‘ these four months, has been quite unnecessary, and
‘ must go for nothing. Every Peer in this house
‘ must be sensible how ill this would sound at home,
‘ and how ridiculous it would appear abroad. I am
‘ far from disputing the good services the town of
‘ *Edinburgh* has formerly done ; but the merit of
‘ ancestors in a former age, can never atone for the
‘ degeneracy of their posterity in the present. As I
‘ very much respect the noble Peer who spoke
‘ last, I shall be likewise far from doubting of the
‘ truth of what he has advanced, with regard to the
‘ tendernefs which the last Parliament of *Scotland*
‘ expressed for the rights of the royal burghs in
‘ that kingdom : I say, I shall be far from doubt-
‘ ing it, because the noble Lord advances it from
‘ his own knowledge. But these privileges must be
‘ always looked upon as privileges which the citi-
‘ zens of *Edinburgh* immemorially enjoyed, and of
‘ which they could not be deprived without injuring
‘ them, not only as citizens of *Edinburgh*, but as
‘ subjects of the kingdom. Had a bill been brought
‘ into Parliament for breaking their charter, dissolv-
‘ ing their corporation, or taking from them their
‘ right of sending a representative to Parliament ;
‘ that, indeed, had been striking at essentials, and
‘ there would have been great weight in what was
‘ objected by the noble Lord. But it is agreed up-
‘ on all hands, that the town guard is of a very late
‘ standing ; and if so, it never can be reckoned a-
‘ mong their ancient and immemorial privileges.
‘ Nor can I see how either the demolishing a gate,
‘ or the keeping it open, can affect them. It hav-
‘ ing been proved, my Lords, that it was owing
‘ to this gate being shut that the barbarous tumult
‘ happened, or at least that it was not suppressed ;
‘ the preventing any such tumult for the future, is
‘ of

‘ of much greater consequence, both to the crown
‘ and to the city, than any loss that the revenue of
‘ either can suffer by its being taken away. Nor,
‘ indeed, do I see any loss that can ensue, if a watch
‘ of the like nature with the night-watch in *London*,
‘ were appointed to stand there so many hours
‘ each night, as the gate used to be kept shut.
‘ This method, we find, is very effectual in other
‘ cities.

‘ I believe, my Lords, there have been very few
‘ bills brought into this house with which your Lord-
‘ ships, however differing in opinion in other re-
‘ spects, will more heartily concur, than with the
‘ present. We have seen bills of this kind before,
‘ and we have heard many plausible arguments ad-
‘ vanced against them: but I cannot imagine how
‘ any one, who wishes well to his King and his
‘ country, can look upon the present bill, which is
‘ calculated only to punish a visible neglect of the in-
‘ terest of both, as a jobb, and refuse his concur-
‘ rence to it on that account. The time was, indeed,
‘ when races of popularity were run, and when gain-
‘ ing a borough or a county might have been the
‘ motives of dissent from a bill of this nature; but
‘ hope there are no such persons now-a-days, at
‘ least I hope there are none among us who will sa-
‘ crifice the honour of government in general to any
‘ jobb, or to any selfish views whatever. Some
‘ think to govern nations by a party, without any
‘ view to the good of government in general; but
‘ it is a pitiful way of governing. A man who acts
‘ zealously for the good of his country, will make
‘ the rule of his conduct the interest of the whole,
‘ which is as much supported by the maxims of pu-
‘ nishing open violations of, as rewarding particular
‘ services done to governments in general. Who-
‘ ever, I say, acts in this manner, acts for the good
‘ of the whole.’

He was replied to by his Grace the Duke of *Argyle*, who spoke to this effect :

Duke of
Argyle's se-
cond speech.

‘ I did not intend to have troubled your Lord-
‘ ships with adding any thing to what I have said
‘ upon the subject of the bill now before us ; but I
‘ find myself so plainly pointed at, in the latter end
‘ of the speech of the noble Lord who spoke last,
‘ that I think I am obliged to say something, that may
‘ acquit me of the imputation that his words insinu-
‘ ate ; I should be very glad if I have mistaken the
‘ noble Lord’s design ; which I have the more rea-
‘ son to hope I have done, because I have never
‘ failed to express the greatest friendship, I may say,
‘ love and esteem for his person ; as I have always
‘ entertained the highest respect for his station and
‘ character. My Lords, I am no minister, I ne-
‘ ver was a minister, and I never will be one. Time
‘ was when I might have been a piece of a minister,
‘ but I was too sensible of my own want of capacity
‘ to engage in any state affairs ; and, I thank God,
‘ I had always too great a value for those few abili-
‘ ties which nature has given me, to employ them
‘ in doing any drudgery, or any jobb of what kind
‘ soever. I have ever since I set out in the world,
‘ (and I believe few set out more early) served my
‘ Prince with my tongue, I have served him with
‘ any little interest I had, and I have served him
‘ in my trade ; and were I to-morrow to be strip-
‘ ped of all the employments which I have endea-
‘ voured honestly and faithfully to deserve, I would
‘ serve him again to the utmost of my power, and
‘ to the last drop of my blood. Can any man say,
‘ my Lords, that ever I ran the races of populari-
‘ ty, or that ever I was engaged in any dirty jobb
‘ of elections, even when I met with treatment, and
‘ was in circumstances which, perhaps, one would
‘ have thought might justify such a conduct ? And
‘ can

‘ can it be suspected that I will now be dipt in any
 ‘ such? I have opposed the present bill, my Lords,
 ‘ because I look upon it to be an invasion upon
 ‘ property in that part of the kingdom. And on
 ‘ that account, my Lords, were it upon no other,
 ‘ I have more reason to oppose it, than any man in
 ‘ this house, nay, perhaps, than any man in the u-
 ‘ nited kingdom: Because there is none whose pro-
 ‘ perty is, there, so extensive as my own. I like-
 ‘ wise look upon it, my Lords, as an incroachment
 ‘ upon liberty, and on this account, no man has
 ‘ better reason to oppose it. My family, my Lords,
 ‘ has been always persecuted, and has often bled un-
 ‘ der tyrants, and never had a breathing time but
 ‘ that of liberty, and should bills of this nature pass
 ‘ into laws, there is reason to be afraid of their con-
 ‘ sequences, with respect to our liberties.’

The answer was to this effect, by the Lord
Hardwick :

‘ That he observed with the greatest concern, that
 ‘ the noble Lord who spoke last had mistaken his
 ‘ meaning; that he entertained the highest opinion
 ‘ of that noble Lord’s candour, integrity, and abi-
 ‘ lities, and that it never was his intention to infi-
 ‘ nuate the least thing to the disadvantage, either of
 ‘ the noble Peer, or any of his relations. That the
 ‘ words which had given the noble Peer offence,
 ‘ were only to be understood of what had been
 ‘ practised in former times, and what possibly may
 ‘ be in the present; but that the noble Lord was
 ‘ the last man in the world to whom he would have
 ‘ them applied.’

Lord Hard-
 wick’s re-
 ply.

On *Monday, May 16*, the said bill, in the form, and with the title as before-mentioned, was sent down to the house of Commons, where, after some debate, it was read a first time, and ordered to be

Debate in of
 the house
 Commons
 upon *Por-
 teous’s bill.*

read a second time on the *Wednesday* seven-night after: Then it was resolved, ‘ That the Lords should
‘ be desired at a conference, that the grounds upon
‘ which the said bill proceeded in their house, might
‘ be communicated to the house of Commons;’ and it was ordered, ‘ That a committee should be appointed to prepare matter, to be offered to the Lords
‘ at a conference for that purpose;’ which committee being accordingly appointed, Mr. Attorney General reported next day from the said committee, That they had prepared matter accordingly, which the committee had directed him to report to the house; and having read the report in his place, and delivered in at the table, it was there again read, and agreed to by the house; whereupon it was resolved, ‘ That a conference should be desired with the Lords upon the subject matter of the bill, intituled (as before-mentioned;) and Mr. *Townshend* was ordered to go to the Lords, and desire the said conference; whither he accordingly went immediately; and being returned, reported ‘ That
‘ the Lords did agree to a conference, and had appointed the same presently in the Painted Chamber.’ Upon this it was ordered, ‘ That the committee, who had been appointed the day before, to prepare matter to be offered to the Lords at a conference, should manage the said conference;’ and their names being called over, they went to the conference; and being returned, Mr. Attorney General reported, ‘ That the managers had been at the conference, and had delivered to the Lords what the house had directed.’

Next day being *Wednesday, May 18*, the house of Commons received a message from the Lords, viz. ‘ That their Lordships did desire a present conference with them in the Painted Chamber, upon the subject matter of the last conference;’ which was immediately resolved, and the messengers being again

again called in, were acquainted therewith. Then it was ordered, ‘ That the committee who managed the last conference, should manage that conference;’ and the names of the managers being called over, they went to the conference; and being returned, Mr. Attorney General reported the conference, and that the Lords had delivered to the managers an authentic extract of the proceedings in the trial of Capt. *John Porteous*, wherein was contained the verdict against the said Capt. *Porteous*, the sentence of the Lords of Justiciary in *Scotland* against him, and the reprieve of the said Captain *Porteous*, granted by her Majesty, as guardian of the realm; and also, a letter from *Alexander Wilson*, Provost of *Edinburgh*, to Major-general *Moyle*, Dated *Edinburgh, April 13, 1736*, which authentic extract and letter were brought up to the table; and the report being read, it was ordered, ‘ That Mr. Attorney General, and Mr. Solicitor General, should take care, that the evidence for the ingrossed bill from the Lords, intitled, (as before-mentioned) should be ready to be produced to that house upon that day seven-night; and likewise, that Mr. Attorney General should appoint counsel learned in the law, to produce and manage the evidence at the bar of that house, upon that day seven-night, to make good the allegations of the said bill; and that the following persons should attend that house on that day seven-night, viz. Major General *Moyle*, Colonel *Duroure*, Major *Roberton*, Major *Poole*, Captain *Bendish*, Lieut. *Ashton*, Mr. *John Din*, Mr. *John Baily*, Mr. *Alexander Nisbet*, Mr. *Robert Stuart*, Mr. *George Irvine*, Mr. *Thomas Young*, Mr. *Roderick Brown*, and Mr. *Christopher Chis-solm*.’

On *Friday* the 20th was presented to the house, and read, a petition of *Alexander Wilson*, Esq; Lord Provost of the city of *Edinburgh*, averring his intire inno-

innocence of the several matters alledged against him in the preamble of a bill then depending in that house, intitled (as before-mentioned;) and therefore praying, that he might be heard by his counsel against the said bill, at the second reading thereof; which was accordingly ordered. And on *Tuesday* following was presented to the house, and read, a petition of the magistrates and town-council of the city of *Edinburgh*, in the name of themselves and community of the same; setting forth, ‘ That
‘ the petitioners apprehended, that if the bill then
‘ depending in that house, intitled, (as before-men-
‘ tioned) should pass into a law, it would greatly
‘ affect, and tend to destroy the rights, franchises,
‘ privileges, and liberties of the said city of *Edin-*
‘ *burgh*; and therefore praying, that the premisses
‘ might be taken into consideration, and that the
‘ petitioners might be heard by their counsel against
‘ such parts of the said bill, as affected the said city;’ which was accordingly ordered; and then Captain *Lind* and Mr. *James Allen* were ordered to attend that house the next morning; when, upon reading the order of the day, for the said bill’s being read a second time, it was proposed to put off the second reading of it for a month; but a motion being made for reading it a second time on that day seven-night, after some debate, the question was put upon the motion for reading it a second time on that day seven-night, which upon a division was carried in the affirmative by 140 to 99. After which the several persons who were ordered to attend on that day, were ordered to attend on that day seven night.

Accordingly, on *Wednesday, June 1*, the order of the day being read, the counsel for and against the bill were called in, and the bill being then read a second time, the hearing of counsel and examination of witnesses began, and was continued all that day,
all

all *Thursday*, *Friday*, *Monday*, *Tuesday*, and *Wednesday* following; on which last day the hearing of counsel for and against the bill being ended, and the counsel withdrawn, Mr. Speaker opened the bill, whereupon a motion was made for its being committed; but a debate arising, and it being then late, the consideration of the said motion was adjourned till next morning, being the 9th of *June*; when the same was resumed, and after a long debate, the motion was upon a division agreed to, by 124 to 118; and it being resolved, that the bill should be committed to a committee of the whole house, it was next resolved, that the whole house would on the *Monday* following resolve itself into a committee upon the said bill.

Tho' it was at first proposed, that the house should next day resolve itself into the said committee; but some members took notice, that next day, being the 10th of *June*, they thought it very improper day for them to go into a committee on such a bill. The scope of the bill, as it then stood, was for demolishing the ports, and dismissing the guard of the city of *Edinburgh*, those very ports, and that very guard which had enabled that city to keep the Pretender out in the year 1715; and for doing this they were to chuse that very day which was celebrated by all *Jacobites* as the Pretender's birth-day. This they thought was not very prudent; it would be a matter of triumph to all *Jacobites*, who would not fail to represent it as a judgment upon the city of *Edinburgh* for shutting their gates against their lawful and rightful Sovereign, as *Jacobites* were pleased to call the Pretender to his Majesty's crown and kingdoms. This consideration, they hoped, would have some weight against agreeing to that part of the bill when they went into a committee upon it; but they took notice of it at that time only to prevent the house's going into a committee on such a bill on such a day.

This

This seemed to be the reason of putting off the commitment of the bill till *Monday* 13; when the house having resolved itself into the said committee, the preamble and every clause of it was opposed, and upon each there was a sort of a distinct debate, several of which were pushed so vigorously, and with so much success by the opposing party, that the bill not only changed its name, but in great part its form.

Nay, it run a very great risque of being quite lost; for after all the amendments had been made, the bill then appeared to be so very different from what had been sent from the Lords, that when a motion was made for reporting the bill with amendments to the house, the same was strenuously opposed; and after a long debate, when the question was put, the division was 130 for the reporting, and 130 against it; so that it came to the casting vote of Colonel *Bladen*, who was chairman of the committee, and gave his vote in favour of the bill; tho' it has generally been observed, that where such a case happens, the chairman has always given his vote for that side of the question which is against any alteration of our laws, or in favour of any person that is to suffer by a new law. But there was another circumstance which contributed to the passing of this bill, or rather prevented its being lost; for at this very time, when this equal division happened, *James Erskin*, Esq; and Mr. Solicitor General for *Scotland* (both strenuous against the bill) were in the house of Peers engaged as counsel in the hearing of an appeal there; and both of them endeavoured as much as they could to have put it off, in order that they might be upon their duty in the house of Commons; but this request was refused.

The motion being thus carried for reporting the bill with the amendments, the report was ordered to be received the next morning; and Colonel *Bladen* having accordingly reported the amendments that
day

day, the first amendment made by the committee, which was, that for leaving out the three several clauses, for imprisoning the Lord Provost of *Edinburgh*, for demolishing the *Nether-bow Port*, and for taking away the guard of the city of *Edinburgh*, was read a second time, and agreed to by the house; then the other amendment made by the committee, being the clause for imposing a fine of 2000*l.* upon the corporation of the city of *Edinburgh*, for *Porteous's* wife, was read a second time; and a motion being made for recommitting that amendment, after a long debate, the question was put, and carried in the negative, by 144 to 123; after which the amendment was agreed to by the house; and then the bill was ordered to be read a third time next morning.

On *Wednesday, June 15*, the bill was read a third time, and several amendments were made to the title, which had become necessary from the amendments, made in the committee, to the bill itself; after which a motion was made for passing the bill, which occasioned a new debate; but upon the question's being put, it was upon a division carried in the affirmative by 128 to 108; and Colonel *Bladen* was thereupon ordered to carry the bill to the Lords, and acquaint them that That house had agreed to the same with some amendments, to which they desired the concurrence of their Lordships. The Bill passed.

But the amendments being so considerable, some Lords thought it looked like a new bill, and that the enacting part as it then stood, was no way correspondent to the preamble; therefore either the amendments ought not to be agreed to, or the preamble ought to be left out, or very much altered; so that there was a long debate upon the motion made in that house, for agreeing to the amendments made by the Commons; but at last, upon a division, the question was

was carried in the affirmative, by 41 contents, to 17 not contents; and *Monday, June 20*, it was returned to the house of Commons, with their amendments agreed to; and, among others, received the royal assent, next day, at the end of the session.

Thus we have given a short history of the passing of this famous bill; in almost every step of which there were long debates, and so many good arguments made use of, and so many remarkable things said, that it would make a large volume to give a tolerable full account of them; we shall only add some of the most material arguments that were made use of for and against the amendments proposed and agreed to in the house of Commons; in which, however, we shall throw in some of the most material arguments that were made use of for and against the bill itself, both in that house and in the house of Lords. But first we must take notice, that upon the bill's being first sent down to the house of Commons, some objections were made by *James Oglethorpe, Esq*; and other members of that house, to the bill's being allowed even a first reading; which were in substance as follows, *viz.*

Arguments
against the
bill, upon its
being first
brought into
the house of
Commons.

‘ Sir, when I oppose the bill now brought to us
‘ for our concurrence, either now upon its first ap-
‘ pearance, or in any other step it makes through
‘ this house, I hope it will not be thought that I ap-
‘ prove of the riot, or the murder, that was com-
‘ mitted upon that occasion, which gave rise to the
‘ bill. All riots and tumults I have in as great
‘ abhorrence as any gentleman in this house; and
‘ there is nothing I think a government ought to be
‘ more jealous of, than their sole privilege of distri-
‘ buting justice or shewing mercy. When either of
‘ these comes to be assumed by the populace, in a tu-
‘ multuous way, when the mob begins to distribute
‘ justice, or to oppose the shewing of mercy, it puts
‘ an

‘ an end to all government, and for that time, at
‘ least, dissolves all society. Therefore all riots and
‘ tumults ought to be punished severely ; but then
‘ they ought to be punished in a regular manner, and
‘ not in such a manner as may overturn the constitu-
‘ tion of our government.

‘ It is this, Sir, which makes me rise up to op-
‘ pose this bill upon its first appearance: It is a
‘ bill of such a nature, that I think this house ought
‘ not to receive it: If you do, you will, in my opi-
‘ nion, give a wound to the privileges of the Com-
‘ mons of *Great Britain*. Bills of pains and penal-
‘ ties, are things, in themselves, of a dangerous
‘ nature ; we ought not, but upon the most extraor-
‘ dinary occasions, to make use of any such method
‘ for inflicting punishment ; and when we are obliged
‘ to make use of such a method, the bill ought to
‘ take its rise in this or the other house, according to
‘ the persons who are to be punished. If a Peer of
‘ the realm had committed any crime, for which it
‘ might be necessary to punish him by way of a bill
‘ of pains and penalties, does any gentleman think
‘ the other house would receive a bill for that pur-
‘ pose from us? No, Sir, if a Peer of the realm, a
‘ member of the other house, were but one of the
‘ persons so to be punished, I believe, the other house
‘ would insist upon his being punished by a bill to
‘ be first brought in and passed in their house ; and
‘ if any member of this house were to be punished
‘ by any such bill, for the same reason, we ought,
‘ surely we should insist upon it, that the bill for that
‘ purpose ought to take its rise in this house.

‘ Now, Sir, I should be glad to know a reason
‘ why we should shew less respect to the counties,
‘ the cities, or the boroughs we represent, than we
‘ would do to any of the gentlemen they send here to
‘ represent them ; for if there be any difference to
‘ be shewn, I must think the former deserve more
‘ of our care, they ought to have a greater respect
‘ shewn

‘ shewn to them upon all occasions by this house,
 ‘ than the latter can pretend to. Shall we then re-
 ‘ ceive from the other house a bill for inflicting pains
 ‘ and penalties upon any corporation in *Great Brit-*
 ‘ *tain*, that has its representatives in this house? Sup-
 ‘ pose, Sir, this bill had enacted, among other pains
 ‘ and penalties, that the city of *Edinburgh* should
 ‘ from henceforth cease to be a city or corporation,
 ‘ could any gentleman, after the passing of such a
 ‘ bill, have kept his seat in this house as a member for
 ‘ that city or corporation? Sir, he must have ceased
 ‘ to be a member, as soon as the corporation he re-
 ‘ presented ceased to be a corporation; and shall we
 ‘ ever receive a bill from the other house for turning
 ‘ one of our own members out of doors?

‘ It is true, Sir, the bill now presented to us for
 ‘ our concurrence, does not in express words put an
 ‘ end to the city and corporation of *Edinburgh*; but
 ‘ it does something very near tantamount; for if
 ‘ you take from a corporation their power of watch-
 ‘ ing and warding, I do not see how they can after-
 ‘ wards well subsist as a corporation. I shall not
 ‘ now enter into the merits of the bill; I shall not
 ‘ enquire, whether the city of *Edinburgh* deserves
 ‘ the punishment to be inflicted upon it by this bill.
 ‘ I think it does not. But it is enough to me, that a
 ‘ city, which has its representative in this house, is
 ‘ to be punished. This, I say, is enough to me for
 ‘ thinking that the bill ought not to have taken its
 ‘ rise in the other house; that we ought not to re-
 ‘ ceive such a bill from them; that we cannot re-
 ‘ ceive it without sacrificing the privileges of this
 ‘ house; and the privileges of all the places we re-
 ‘ present. I hope no gentleman thinks, there is the
 ‘ less respect to be shewn to the city of *Edinburgh*,
 ‘ because of its being in *Scotland*. Sir, it is now a
 ‘ city of *Great Britain*, it is the second city of *Great*
 ‘ *Britain*; and if such a bill had come from the
 ‘ other

‘ other house against the meanest borough of *Scotland*, that has a representative, or a part of a representative in this house, I should have been against our receiving the bill. We are in honour obliged to protect the Commons of *Scotland* as much as the Commons of *England*; because they trusted to our honour, when they united with us upon the terms they did. We are in prudence obliged to protect the privileges of every borough in *Scotland*, as much as the privileges of any borough in *England*; because no incroachment can be made, no injury can be done to the one, but what may be made a precedent for doing the same to the other. If we allow the other house to incroach upon the privileges of the Commons of *Scotland*, it will be a precedent for their incroaching upon the Commons of *England*. If we accept of this bill, if we give it a reading, I shall soon expect to see a bill brought us from the other house, for turning some of our members out of doors. Therefore, Sir, I am against its being read a first time.’

To this it was answered in general :

‘ That the bill’s being brought in by the other house did not proceed from any design to incroach upon the privileges of that house, but from the other house’s having first entered upon an inquiry into that atrocious riot, that cruel murder, which had happened at *Edinburgh*; and the reason for their being the first to enter upon that inquiry was evident, from the nature of the business that usually came before the two houses; for in the other house, they had generally little to do in the beginning of a session; whereas, in that house, the providing supplies for the current service of the government, took up so much of their time in the beginning of a session, that they had not leisure to enter upon

Answer,

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‘ any particular or extraordinary affair. That up-
 ‘ on that inquiry, the other house were of opinion,
 ‘ it was absolutely necessary to inflict some punish-
 ‘ ment upon the city of *Edinburgh*, in order to
 ‘ make that, and every other city, more careful to
 ‘ prevent mobs, and more active in suppressing
 ‘ them, for the future. That as this was their only
 ‘ aim, as it was an aim which that house could not
 ‘ but approve of, they hoped the house would not
 ‘ be too jealous of their privileges upon such an
 ‘ occasion ; for even tho’ it were indisputable, that
 ‘ the other house ought not to be allowed to bring
 ‘ in a bill for inflicting pains and penalties upon
 ‘ any city or borough in *Great Britain*, yet in a
 ‘ case where no incroachment was intended, and
 ‘ which might so greatly contribute to the domestic
 ‘ peace and quiet of the kingdom, it was absolutely
 ‘ necessary for both houses, not to be over-scrupu-
 ‘ lous in point of privilege. And that as the other
 ‘ house had begun the inquiry, as upon that in-
 ‘ quiry, they had found it absolutely necessary to in-
 ‘ flict some punishment upon the city of *Edinburgh*,
 ‘ and upon the chief magistrate thereof, at the time
 ‘ the mob happened, they hoped gentlemen would
 ‘ consider, the other house had then no other way
 ‘ of proceeding, in order to inflict that punishment,
 ‘ than by bringing a bill for that purpose. There-
 ‘ fore they hoped no scruple would be made to the
 ‘ reading of the bill, and upon the second reading
 ‘ they would see, whether the other house had good
 ‘ reason for passing such a bill ; when they might
 ‘ either concur with the other house in passing the
 ‘ bill, or might reject or amend it as they saw
 ‘ cause.’

To which it was replied in general :

Reply.

‘ That it was true, the first part of the session was
 ‘ generally taken up, in that house, with granting
 ‘ money

‘ money to the government ; but it was not wont to
‘ be so ; for in former times, their first business was
‘ to inquire into abuses, and redress grievances ; and
‘ if that house had taken example by their ancestors,
‘ instead of voting a supply the second or third day
‘ of the session, they would have voted an inquiry
‘ into those riots and tumults, which of late had been
‘ so frequent and so general all over the kingdom ;
‘ for the people never grew tumultuous without
‘ some cause, and it was very probable the late tu-
‘ mults had proceeded from some abuses or some
‘ grievances which they ought to inquire into. That
‘ the best way of judging of mens intentions was by
‘ their actions ; and as the bill brought from the
‘ other house was certainly, as they thought, an in-
‘ croachment upon the privileges of that house, the
‘ surest and safest way of judging was, to suppose an
‘ incroachment was intended. That incroachments
‘ had always been made at the most favourable junc-
‘ tures ; and if ever the other house should endea-
‘ vour to incroach upon that, they would always
‘ take occasion to do it, with respect to bills which
‘ might seem absolutely necessary ; so that if they
‘ made the expediency, or even the necessity of a
‘ bill, a good reason for submitting to an incroach-
‘ ment, they would very soon have no privileges
‘ left. That, as that house was the grand inquest
‘ of the nation, it was their proper business to in-
‘ quire into all public abuses, especially where any
‘ of their own members were concerned ; and that
‘ if the other house did, upon any occasion, take
‘ upon them to inquire into any such public abuse,
‘ they ought to proceed no farther ; they might
‘ then, at a conference, communicate to that house
‘ the discoveries they had made, and leave it to that
‘ house to proceed by impeachment, or by a bill of
‘ pains and penalties ; which the other house might
‘ have done in the present case ; and their not hav-
‘ ing done so, seemed to shew, they had an inten-

' tion to take advantage of that favourable opportu-
 ' nity for making a little incroachment upon a pri-
 ' vilege, which they knew would have otherwise
 ' been strenuously contested. That whether or no
 ' there was a necessity for punishing the city, or any
 ' of the magistrates of *Edinburgh*, could not then
 ' appear to them, and therefore could not be an
 ' argument of any the least weight in that debate ;
 ' but suppose there was such a necessity, there was
 ' no necessity of the session's breaking up at a cer-
 ' tain day ; they might go upon an inquiry imme-
 ' diately ; the witnesses were all in town ; these wit-
 ' nesses might soon be examined, and upon that exa-
 ' mination they might order a new bill to be brought
 ' in, if they saw cause ; and that new bill might pass
 ' thro' both houses, long before it would be abso-
 ' lutely necessary to put an end to the session : There-
 ' fore they saw no inconvenience could ensue, from
 ' their not receiving the bill then brought them from
 ' the other house ; and for that reason they could not
 ' agree to its being read a first time.'

This was the substance of what was said upon
 this bill, at its first appearance in the house of
 Commons ; but as a majority seemed to be for
 reading the bill, there was no division upon the
 question.

Accordingly, the bill was read a first time ; and
 a motion being made to read it a second time, *Pa-
 trick Lindsay* Esq; member for the city of *Edinburgh*,
 made the following speech.

' Mr. Speaker,

*Mr. Lind-
 say's speech.*

' Sir, the concern which I have in this bill, as it
 ' affects the rights, the privileges, and franchises of
 ' that city, which I have the honour to represent in
 ' this house, as well as it affects personally him who
 ' has now the honour to be the chief magistrate of
 ' that city ; this concern, I say, Sir, will (I hope)
 ' plead

‘ plead my excuse to this honourable house, for pre-
‘ suming to take upon me, Sir, to submit to your
‘ consideration my sense of this bill, and of the
‘ effects of it, should it pass into a law. Sir, that
‘ cruel, barbarous, and inhuman murder, that most
‘ outrageous and atrocious riot, which was commit-
‘ ted at *Edinburgh* the 7th of *September* last, must
‘ affect every person of humanity with horror: And
‘ as it was, Sir, a trampling upon all civil govern-
‘ ments, and a bold and manifest violation of the
‘ laws, and a direct insult upon the legal authority,
‘ it cannot fail to raise gentlemen’s indignation, and
‘ to rouse the resentment of every true *Briton* to do
‘ justice to the public, by pursuing of any measure
‘ that may be most likely to punish so black a crime;
‘ a crime so dangerous to civil society, and to bring
‘ the execrable and desperate authors of it to con-
‘ dign punishment. — But, Sir, I hope gentlemen’s
‘ zeal for justice will not so far blind their under-
‘ standing, as to allow themselves to be diverted
‘ from the pursuit of justice, and to be misled from
‘ the right scent, by falling upon the innocent, and
‘ thereby to allow the guilty to escape and to pass
‘ unheeded. — By whom, Sir, was this bloody mur-
‘ der, this outrageous murder committed? By a
‘ mob, Sir, a mob composed, as mobs commonly
‘ are, of the lowest class of the people; by persons
‘ of dissolute and bad lives, and of worse manners;
‘ persons who despise the office of magistracy, and
‘ hate the persons of magistrates, because magistrates
‘ punish and controul their crimes, and restrain them
‘ from acts of violence, and from committing disor-
‘ ders; persons who are prone to do mischief, and,
‘ when they can do it with hopes of impunity, rare-
‘ ly fail to abuse and insult the persons of magistrates.
‘ — And who, Sir, are by this bill to be punished
‘ for this riot? Those who committed the insult?
‘ No, Sir, by this bill those who were insulted are
‘ to be punished. Is the insolence of the multitude

‘ to be repressed by this bill? No, Sir, the hands
‘ of the civil magistrate are to be weakened by this
‘ bill. In a free country, Sir, the civil magistrate
‘ only can suppress and prevent riots and disorders:
‘ and how? By punishing of rioters and disorderly
‘ persons. And if the hands of the civil magistrate
‘ are not strengthened, the office of magistracy
‘ must become useless. — Sir, I have observed, since
‘ I came last to this place, that a very odd notion
‘ has prevailed here, and with great grief and con-
‘ cern, Sir, I find this notion to be general, that
‘ persons of all ranks (in that country where that
‘ abominable crime was committed) favour this
‘ foul, this black, this most detestable crime; than
‘ which, Sir, nothing is more unjust, nothing more
‘ false and untrue. I therefore beg leave to explain
‘ this a little. — The mobs in that part of the king-
‘ dom, Sir, resemble very much the mobs here;
‘ they are composed here as well as there (and I be-
‘ lieve every where) of such persons as I have just
‘ now described to you; but there is one difference
‘ betwixt the mobs in that country and your mobs
‘ here, and that is, however wicked the mobs in
‘ that country may be, yet they are not so aban-
‘ doned as to do mischief with their eyes open. But,
‘ Sir, the lowest class of people in that country have,
‘ generally speaking, a turn to enthusiasm, and so
‘ strong is the influence, such is the force of delu-
‘ sion, that they can work themselves up to a firm
‘ persuasion and thorough belief, that any mischief
‘ they are to do, is not only lawful but laudable;
‘ that it is their duty to do it, and, from a religious
‘ principle, to do it at any risque, even at the risque
‘ of their lives.

‘ Hence it is, Sir, that riots and disorders are less
‘ frequent in that country than here; and when mobs
‘ do rise there, they are more determined, and con-
‘ sequently more dangerous.

‘ The

‘ The unthinking multitude, Sir, are but too
‘ much encouraged in this by the clergy ; for, Sir,
‘ when the clergy are like to be defeated or disap-
‘ pointed in any particular view of disposing of any
‘ ecclesiastical benefice and preferment as they have
‘ a mind, because the law stands in their way, they
‘ abuse the unwary people, Sir, and spirit them up
‘ to despise and disobey the law, by this dangerous
‘ doctrine, too often inculcated — upon such occa-
‘ sions, *that such a law is iniquity — established by*
‘ *law.*

‘ This dangerous doctrine, this seditious practice,
‘ in openly and publicly maintaining it, cannot be
‘ charged, Sir, upon the church of *Scotland*, or up-
‘ on the clergy of that country in general. They,
‘ Sir, by much the major part of them, are good
‘ men as well as good christians; men of sound prin-
‘ ciples in their lives, and in their practice blame-
‘ less ; men who think as every gentleman of this
‘ house does, Sir, that the laws of every country
‘ ought to be obeyed, as the sole and only rule of
‘ government in every country ; but this seditious
‘ doctrine is preached up by those wild, hot-headed,
‘ violent high-church clergy, who are not to be
‘ satisfied with any power, unless they possess all
‘ power ; and by them only. Yes, Sir, I am sorry
‘ to say it, we have high-church Presbyterians, who
‘ have higher notions of clerical power than any
‘ Protestant clergy whatever ; some there are, Sir,
‘ who assert and maintain an absolute independency
‘ on the civil power. — Sir, the dangerous effect
‘ of doctrines of this kind is, that when men are
‘ taught and brought to believe, that any law what-
‘ ever is iniquity established by law, and while it
‘ remains in force under the sanction of the Legisla-
‘ ture, it may nevertheless be disobeyed, and the
‘ civil magistrate resisted in the execution of it, men
‘ of weak understandings and strong passions will
‘ easily deceive themselves, and look upon every law
‘ that

‘ that interferes with their passions, to be iniquity ;
‘ especially, Sir, if they have, as all weak people
‘ commonly have, a good opinion of themselves,
‘ and of their own superior sanctity and holiness.

‘ Now, Sir, I must beg leave to explain the source
‘ of these late disorders, that have given so much
‘ trouble to the Legislature.

‘ Sir, the pernicious practice of smuggling, so
‘ prejudicial to the fair trader, and so hurtful to
‘ the common and general good of the nation, has
‘ prevailed too much in that country, Sir, as well as
‘ in this. Whoever, Sir, may be the importers and
‘ proprietors of run goods, it is most certain, that
‘ the lowest class of men, the dregs of the people,
‘ those persons who compose mobs, are the persons
‘ employed in the running of these goods ; and they
‘ get so much more, by this illicit trade, than they
‘ can earn by honest labour, that they neglect their
‘ labour for the sake of this vile and destructive
‘ trade.

‘ As this lowest herd of mankind, Sir, have been
‘ taught that one law is iniquity, they have taught
‘ themselves that some other laws are so too ; if one
‘ may judge of their principles by their practice, all
‘ your revenue laws stand in an unfavourable light
‘ with them, Sir,

‘ Every gentleman, Sir, has heard of the execu-
‘ tion of that noted smuggler *Andrew Wilson*, whence
‘ all this mischief has flowed. That deluded man,
‘ Sir, maintained to the hour of his death, that he
‘ was most unjustly condemned ; and died with great
‘ tranquillity ; so firm, so fixed was he in the belief
‘ of his own innocence. He maintained this, Sir,
‘ in a debate with one of the reverend ministers of
‘ *Edinburgh*, and a very able clergyman he is.
‘ When this minister, Sir, was endeavouring to un-
‘ deceive him, and bring him to a sense of his guilt
‘ of the crime for which he was condemned, he ad-
‘ mitted, that he had taken money from a collector
‘ of

‘ of the revenue by violence ; that he did it, because
‘ he knew no other way of coming at it ; that the
‘ officers of the revenue had, by their practice,
‘ taught him this was lawful, for they had often
‘ seized and carried off his goods by violence ; and
‘ so long as they had goods of his of greater value
‘ in their hands than all the money he took from
‘ them, they were still in his debt, and he had done
‘ no wrong.

‘ I am afraid, Sir, this martyr to this new here-
‘ tical sect of smuggling, was too much favoured
‘ by the misled and unwary multitude ; too many of
‘ them thought, as he himself did, Sir, that he was
‘ unjustly condemned ; and every one who firmly
‘ believed this, would, no doubt, think it his duty
‘ to save and to rescue this innocent person (as they
‘ thought him) from the rigour of law ; and, Sir, if
‘ the magistrates of *Edinburgh* had not taken extra-
‘ ordinary precautions to put this sentence in exe-
‘ cution, he, this *Wilson*, Sir, would very probably
‘ have been rescued by the multitude. — But, Sir,
‘ when they saw themselves disappointed, no sooner
‘ was this execution over, than they began to wreck
‘ their malice upon that guard which had, upon ma-
‘ ny other occasions as well as that, suppressed their
‘ disorders, and restrained their guilty hands from
‘ doing of mischief, and committing of real not
‘ imaginary iniquity ; upon that guard, Sir, which
‘ is to be abolished by this bill.

‘ Upon this occasion, Sir, the unhappy person
‘ who then commanded the guard, did, from an
‘ apprehension, I suppose, that he might be over-
‘ powered by the great crowds of people then
‘ assembled, defend himself and his men by their
‘ fire-arms, whereby several of the multitude were
‘ killed and wounded : And what were the effects
‘ of this, Sir ? — The persons who were then killed
‘ and wounded, were of that class of people who
‘ commonly attend such melancholy spectacles,
‘ Sir,

‘ Sir, that is, of the lowest class. The mob, Sir,
‘ from that moment began to murmur, from an
‘ apprehension, that because no person of rank and
‘ condition had been killed, therefore would this
‘ barbarous murderer (as they called him) escape
‘ from justice by the favour of persons of condition.
‘ And in this, Sir, they were not mistaken; for —
‘ no sooner was this unhappy person condemned by
‘ law, Sir, than a number of persons of condition
‘ set a petition on foot to intercede with her Majesty
‘ (then guardian of the realm) for mercy; they did
‘ this, Sir, not so much out of tendernefs to this man,
‘ that they thought his case hard, as from another
‘ motive, a motive of a public nature; and that
‘ was, Sir, should this sentence have taken effect,
‘ the mob would become more insolent, when they
‘ found that the civil magistrate, or other persons
‘ acting under their authority, were in no better
‘ case than they who resisted the civil magistrate in
‘ the execution of the law; but if by this man’s
‘ pardon, if by the interposition of mercy from the
‘ crown, they were convinced, that every person
‘ who acted by law, to put the laws in execution,
‘ acted safely, and that every person that acted other-
‘ ways did it with a rope about his neck, that would
‘ effectually suppress the insolence of the multitude,
‘ and force obedience to the law, even from those
‘ base minds who, by force alone, are to be driven
‘ into a sense of their duty. — Who then, Sir, of
‘ that country, approves of that wicked murder and
‘ riot? The mob only, Sir, by whom it was com-
‘ mitted; persons who have no property, and there-
‘ fore are fond of disorders, because they can lose
‘ nothing by disorders; and if they can escape cor-
‘ poral punishment, are often gainers by public cala-
‘ mity and disorders.

‘ This then, Sir, appears plainly to be a dispute
‘ betwixt the people of *Scotland* (by whom, Sir,
‘ I mean every man of property, every freeman,
‘ every

‘ every man who may suffer by the subversion of the
‘ laws, and by the loss of liberty) and whom, Sir?
‘ The canalzie, the dregs of the people of *Scotland*,
‘ that class who are anciently called by your law,
‘ Villains ; that ignorant herd of bigots, who are al-
‘ ways misled by crafty and ill-designing clergymen ;
‘ for men of sense and knowledge, Sir, have a much
‘ surer and a better guide, that is, right reason, that
‘ eternal and unerring rule.

‘ Sir, it is a great misfortune to that country,
‘ where this bloody tragedy was acted, that many
‘ gentlemen who hear me, are so much strangers to
‘ it ; strangers to its laws and customs, strangers to
‘ the manners and tempers of the people, strangers
‘ to these different ways of thinking of the people
‘ of knowledge and condition, from the principles
‘ of the inferior multitude, which I have now, Sir,
‘ been endeavouring to explain to you, so far as they
‘ relate to the present case.

‘ Therefore, Sir, if it is the sense of the house to
‘ proceed upon this bill, the consideration of it re-
‘ quires the greater attention ; the interest of *England*
‘ makes it necessary ; it is an affair of the utmost con-
‘ sequence to the liberty of the subject ; and as it
‘ ought, it will no doubt be treated as such, for the
‘ united kingdom is greatly interested in the manner
‘ of determining of this bill, as well as in the fate
‘ of it.

‘ Sir, while the two nations remained in a state of
‘ independency, those frequent wars, which are but
‘ too common betwixt neighbouring nations, begot
‘ mutual fears, mutual jealousies and distrusts, na-
‘ tional hatred, and national averfions : But as the
‘ cause of these national feuds and enmities most
‘ happily ceased by the union of the crowns, I hope,
‘ Sir, the effect also ceased with the cause.— From
‘ that happy period, Sir, both nations were em-
‘ barked upon the same bottom, the honour and in-
‘ terest of both became the common and inseparable
‘ cause

‘ cause of both, the honour and interest of one
‘ could not be hurt without affecting the other; and
‘ I think, Sir, the subjects of both nations became
‘ very soon sensible of this, that by that happy acci-
‘ dent they were reduced from a state of enmity to a
‘ state of perpetual friendship; and I think we may
‘ observe from experience, that those national pre-
‘ judices and distrusts began very soon to abate;
‘ even so early, Sir, as the unhappy civil war in the
‘ reign of King *Charles I.* which broke out within
‘ less than forty years after the union of the crowns.
‘ May we not observe, Sir, the subjects of both na-
‘ tions, who were of the same sentiments and opi-
‘ nions, with regard to the causes of that unhappy
‘ war, making and entering into alliances and con-
‘ federacies with one another, against the subjects of
‘ both nations, who were of contrary sentiments?
‘ Was not the war carried on by *Scotsmen* and *Eng-*
‘ *lishmen* against *Englishmen* and *Scotsmen*, without
‘ the least national distinction, or national distrust?
‘ They were even at that time, Sir, perfectly sensi-
‘ ble, that the liberties of any one of the nations
‘ could not be subverted, without destroying the
‘ liberties of the whole, and that the whole could
‘ not be preserved, unless the liberty of every part
‘ of the whole was preserved and secured upon the
‘ same footing.

‘ The same thing appeared, Sir, at the late happy
‘ revolution: Were not the subjects of both nations
‘ equally forward, equally zealous in the cause of
‘ liberty, a cause inseparably common to both; and
‘ did not a few of both nations, without distinction,
‘ adhere to what they called the prerogative of the
‘ crown, and the indefeasible right of the unhappy
‘ and misfortunate Prince then upon the throne?
‘ But now, Sir, we are in a situation very different
‘ from that; we are now, Sir, by an incorporating
‘ union, become one and the same people, bound
‘ and

‘ and cemented together by all the ties that bind individuals in civil society.

‘ The representative body of the people of *Scotland* did, upon that occasion, express an absolute trust and confidence in this nation of *England*; no security, no guarantee whatever, was on their part required, for the performance of the several articles and conditions stipulated by that treaty in our favour, other than the faith of a *British* Parliament. In this, Sir, they acted most wisely; for what security, what force, what power, what constitution could have been contrived, that could have proved so absolute, so real, and so effectual a security, as the faith, the justice, the honour, the candour of an *English* Parliament; I say an *English* Parliament, Sir; for in a Parliament of *Great Britain*, the representatives of that part of the united kingdom do not make up the tenth part of either house.

‘ We had, Sir, the experience of ages to induce us to follow so wise a course; the Legislature of *England* had always acted wisely, never like arbitrary governments from caprice or humour, but had always steadily pursued the real interests of the nation of *England* with great judgment, great sagacity and forecast; and we, Sir, were sensible that our interests were the same with yours; that so long as you minded your own interests, ours must be safe in your hands. Then, Sir, however weak and ignorant people may think or act, people who are weak enough to be misled by national prejudices, yet the wisdom of the nation will always act uniformly, always act wisely.

‘ I know, Sir, it is the way of speaking without doors, among such weak and foolish people, that the Legislature may be unconcerned and indifferent as to any public measure as to *Scotland*; that it is a matter of no moment how, or in what manner any public law affects that country; whether these
‘ people

‘ people are dissatisfied or no; should they be ever
‘ so much displeased, ever so much angry, it is of
‘ no consequence; should they even take it into
‘ their heads to mutiny and to rise in rebellion, it
‘ signifies nothing, for we have always as many
‘ troops quartered among them as are sufficient to
‘ conquer them.

‘ This is easily said, Sir, and I admit it might be
‘ as easily done too; but because such a thing might
‘ be done, would such a measure be just, would it
‘ be a wise measure? Sir, so foolish and so foul a
‘ deed as this would be falsely called conquest; it
‘ would be an act of treachery, it would be treason,
‘ Sir, treason of the blakest kind! treason against
‘ the people! If any person of condition was to talk
‘ thus, should the greatest person of the nation infi-
‘ nue such a thing by way of advice, this house
‘ would take notice of it, Sir; this house would im-
‘ peach such a person as an enemy to the public, as
‘ a most dangerous public enemy; and give me leave
‘ to say, Sir, that if ever the Legislature should be
‘ so blind to its own interest, so false to the trust
‘ reposed in them by the people, as to allow such a
‘ use to be made as this, of those forces which are
‘ maintained by the people, for the preservation of
‘ their liberty, the same number that could conquer
‘ *Scotland*, could with much greater facility conquer
‘ *England*.

‘ Such conquests as these, Sir, are easily made;
‘ very little skill would be required in the general
‘ that would make so glorious a conquest; treachery,
‘ treachery alone is the only qualification necessary
‘ for the executioner of such a project: But would the
‘ conquest be as easily maintained as made? No, Sir.

‘ It is a common saying, Sir, That oppression
‘ makes all men of one mind. In that event, Sir,
‘ ten times the number of forces that made this con-
‘ quest, and perhaps made it with ease too, would
‘ prove too few to maintain it.

‘ Every

‘ Every gentleman, who is the least acquainted
‘ with history, knows what miracles oppression hath
‘ worked upon the oppressed. Do not the States of
‘ *Holland* owe their being to oppression? Do not the
‘ *Swiss Cantons* owe their freedom and independency
‘ to oppression? Does not *Portugal* owe its indepen-
‘ dency to the indiscreet and oppressive measures of
‘ the court of *Spain*? But I beg leave, Sir, to bring
‘ one instance nearer home.

‘ The *Cambrian Gauls* were reduced by force of
‘ arms. As the conquest of this powerful country
‘ was once determined by the fate of one battle at
‘ *Hastings*, so they, Sir, after the loss of a battle,
‘ were obliged (as you did) to submit to necessity.
‘ This conquest was easily made; but was it as easi-
‘ ly maintained? No, Sir, every one knows what
‘ blood and treasure it cost you to keep this province
‘ in subjection; and so sensible were your ancestors
‘ of this, that after the experience of near three cen-
‘ turies, Sir, such was their wisdom, that they, of
‘ their own accord, (and a wise measure it was, Sir!)
‘ I say of their own accord, made that brave and in-
‘ vincible people a free people; and how, Sir? By
‘ admitting them to a share of the Legislature in
‘ this house, by making them one and the same
‘ people nationally with yourselves, and removing,
‘ as far as in you lay, all national distinctions; that
‘ there should be no more difference betwixt an
‘ *English* and a *Welsh-man*, than there is now betwixt
‘ an ancient *Briton*, a *Roman*, a *Saxon*, an *Angle*, a
‘ *Jute*, a *Dane*, or a *Norman*.

‘ Is it then to be imagined, Sir, that the Legisla-
‘ ture of *Great Britain* could be capable of such
‘ indiscretion, as to destroy, or in the least to im-
‘ pair and abate, that harmony between the two
‘ united nations, upon which the happiness of both
‘ so much depends? That you, Sir, could by any
‘ unequal dealing, or partial procedure, force that
‘ ancient

ancient and invincible nation, that free and independent nation, who, of their own accord, freely, without the least restraint or necessity, trusted themselves absolutely to your faith, after both nations had from an experience of a hundred years, from a just sense of their true and real interests, come to an absolute and determined resolution to become absolutely and intirely one and the same people ! That you, Sir, who are the sole and only guarantees of this treaty, should force this nation from this state of friendship, a friendship secured by every tye that can bind friends ; that you, I say, Sir, should force them back again into a state of enmity ; that you should, contrary to all common sense and common honesty, betray this great trust, and by acts of severity and oppression, drive this nation into a state of slavery ! This, Sir, is absolutely impossible, so long as mankind are possessed of common sense in the smallest degree ; for no argument is necessary, Sir, to convince you, that if ever any part, especially so great and considerable a part of this united kingdom, is reduced to a state of slavery, the whole must soon undergo the same fate. We are now too closely united, not only bound but cemented together, by too many and too strong ties to be ever separated, without tearing out the vitals of the united kingdom, and rending it into pieces. In all events, both must share the same fate, both must be free or both must be slaves. A free state, Sir, knows no master but the law ; freemen are governed by law, and by law only ; slaves are governed not by law but by arbitrary rule, by acts of violence, and by military force ; and whoever is master of that force, must be master of all. If any part of the united kingdom must submit to slavery, all and every part must submit to slavery, for no proposition is more obvious and self-evident than this, that, in a national sense, *Scotland* is as much a part of *England*,
land,

‘ *land*, as the counties of *Kent* or *Cornwall* are, and
‘ this county of *Middlesex*, and every part of *England*
‘ is as much a part of *Scotland*, as the county of
‘ *Edinburgh* is; that the interests of all and of every
‘ part of *Great Britain* are so absolutely and so in-
‘ tirely the same, that no one part can be hurt
‘ without affecting the whole, no more than the na-
‘ tural body can be hurt or maim’d in any of its
‘ members without feeling pain; and therefore, Sir,
‘ every part of the whole must be equally the care
‘ of the legislature. And if this is so, then, Sir,
‘ this bill must stand or fall by its own merits. It
‘ will be tried by this house, Sir, with the utmost
‘ impartiality, and with the strictest regard to jus-
‘ tice—It will be considered by this house, Sir, as
‘ if this unhappy disorder had been committed in
‘ the city of *London*, in *York*, *Bristol*, or any other
‘ corporation in *England*; and I submit it to gentle-
‘ men’s consideration, how they, especially they that
‘ represent cities and burghs, how they, I say, like
‘ bills of this kind.—Because a disorder and a crime
‘ have been committed, and because the criminals
‘ have escaped and fled from justice, therefore the
‘ magistrates of that city or burgh are to be punished
‘ by bill, and the corporation itself suffer in its
‘ rights and franchises, and be deprived of its pri-
‘ vileges. I have already hinted at the first at-
‘ tempt that was made upon the liberties of this
‘ island: gentlemen will observe where that first at-
‘ tempt was made, and where it pointed; and they
‘ may thank their ancestors of that generation, who
‘ had sagacity and forecast enough, to foresee where
‘ it must end, and foresaw it before it was too late.
‘ *Principiis obsta*, is a good maxim.

‘ I am not lawyer enough, Sir, to form any
‘ opinion of bills of this nature; but one part of
‘ the procedure in another place, in order to found
‘ this bill, appears to me to be somewhat dangerous

‘ to the privileges of the Commons of *Great Britain*;
‘ and that is, Sir,—The magistrates of *Edinburgh*
‘ are ordered to attend at the bar of another house
‘ on a day certain: they appear; but we are not
‘ told whether they are ordered to attend as evi-
‘ dences to give information, or as persons accused
‘ of any thing. No, Sir, they are directly put upon
‘ oath, and severally examined, direct questions put,
‘ and direct and categorical answers insisted upon,
‘ under no less penalty than contempt. They are
‘ not told, Sir, your answer to this or to that ques-
‘ tion may affect yourself penally, and therefore you
‘ are at freedom to answer it or no; and neverthe-
‘ less, Sir, upon those answers is the bill founded.—
‘ I say, Sir, I shall not pretend to form any opinion
‘ of bills of this kind. In my own way of think-
‘ ing, Sir, every state must have a power to save it-
‘ self, that the whole legislature may use any me-
‘ thod whatever to save the public; but I have al-
‘ ways understood that proceedings by bills, such as
‘ this, were always considered as remedies, in cases
‘ of extreme necessity, and in such cases only. There-
‘ fore the first question before you, Sir, is, Whether
‘ this be a case of that kind.

‘ I am sensible, Sir, I cannot now enter upon the
‘ merits of this bill, but I hope I shall not be impro-
‘ per, if I explain to the house, Sir, the occasion of
‘ this bill.—The report, Sir, that the mob would
‘ make an attempt to commit this crime, was pret-
‘ ty universal, and that this attempt was to be
‘ made upon the day appointed for this unhappy
‘ man’s execution, unless he was executed at the u-
‘ sual hour according to his sentence. Agreeable to
‘ this intelligence, the magistrates of *Edinburgh* used
‘ precautions, and proper precautions they were, Sir,
‘ to prevent this mischief; but the mob, Sir, they
‘ were likewise sensible that their wicked purpose
‘ might reach the ears of the magistrates, and if it
‘ did, Sir, they were likewise sensible, from fatal and
‘ dear-

‘ dear-bought experience, that the magistrates of
‘ *Edinburgh* had always, and upon all former occa-
‘ sions, by the means of this city guard, Sir, sup-
‘ pressed mobs and tumults, and punished the authors
‘ and ringleaders of them with great severity. By
‘ all that can be learned, Sir (and great pains have
‘ been taken to make discovery) I say, Sir, it ap-
‘ pears by the discoveries that have been made, that
‘ the mob despaired of success, and therefore, Sir, a
‘ number of the most determined entered into a
‘ conspiracy, and bound themselves by solemn oath
‘ to execute any purpose that should be agreed on
‘ by the majority, and to lose their lives rather than
‘ to discover this secret, or to discover one another;
‘ and if gentlemen knew how strong, and how sa-
‘ cred a tie an oath is with these people, they would
‘ not be surpris’d, that this secret was so well kept.
‘ —There is no direct proof of this, Sir, but the
‘ presumption from several circumstances is very
‘ strong, and the event makes it highly probable.
‘ For this attempt to surprize and disarm the city
‘ guard, upon which the success of their whole
‘ scheme depended, was executed in a moment, upon
‘ a signal, and a time, when no magistrate or citizen
‘ of *Edinburgh* had the least suspicion of it, nor in-
‘ deed any other person, unless those who were in
‘ the plot: this, Sir, plainly appears to have been
‘ the case, and if it is so, where is the guilt of the
‘ magistrates or citizens of *Edinburgh*? —All the
‘ world heard, Sir, of mischiefs that were threatened
‘ by the mob here, when the gin act was to take
‘ place, and agreeable to these reports, precautions
‘ were taken to prevent these riots and disorders
‘ that were threatened; but when, Sir? Upon *Mi-*
‘ *chaelmas Eve* only, and not before. Now, Sir,
‘ suppose a number of this mob had engaged them-
‘ selves in a plot, and kept their secret, and had the
‘ night before these precautions were taken, committed
‘ any outrageous and criminal act of violence, and
‘ had

‘ had under the favour of the night and other dif-
‘ guises of apparel, all of them made their escape,
‘ would it have been thought reasonable, would it
‘ have been thought necessary to have brought in a
‘ bill to punish the magistrates and cities of *London*
‘ and *Westminster*? Sir, I think this is precisely the
‘ case, and I therefore submit it to the house, Sir,
‘ if there is the least foundation for this bill. Should
‘ this bill, Sir, pass into a law, the office of civil
‘ magistracy would become so dangerous, that no
‘ wise man, no prudent man, would ever accept of
‘ it; and if the magistrates of this city have been,
‘ at this period, unable to suppress a tumult, when
‘ they had power to support their authority, how
‘ can they preserve the peace of this populous city,
‘ when that power is taken from them?—This ci-
‘ ty-guard, Sir, is a watch, a watch by day as well
‘ as by night; it is a creature of the civil magistrate,
‘ under his direction only; it is subject to no muti-
‘ ny act, but governed by the same laws that other
‘ subjects are; and if it should be abolished, what
‘ would be the consequence? If this bill should pass
‘ into a law, this ancient city, this metropolis of
‘ one of the united kingdoms, must either be redu-
‘ ced to a state of anarchy and confusion, to be go-
‘ verned by the licentious and unruly multitude, or,
‘ which is worse, Sir, it must submit to a military
‘ government; and so by a side wind, and without
‘ any design, you shall, in consequence of this bill,
‘ introduce a practice that must very soon put an
‘ end to all liberty.—For, Sir, when you cannot
‘ execute the law, nor preserve the peace without
‘ military force, when those who have the direction
‘ of that force shall become sensible that they, and
‘ they alone, can execute your laws, they will soon
‘ become the makers as well as the executioners of
‘ your laws, as once happened to this nation alrea-
‘ dy, when your own army under that crafty trai-
‘ tor

‘ tor *Cromwell* usurp’d the whole power of the legis-
‘ lature, and of the civil magistrate. For these rea-
‘ sons, Sir, I hope you will proceed no farther up-
‘ on this bill.

The witnesses having been examined and the counsel heard, as before-mentioned, the motion for committing the bill came under consideration on *Thursday* the 19th of *June*, when the following debate happened.

The Attorney General, *Dudley Rider* Esq; having moved for the committing it, he was seconded by Mr. *Strange*, the Solicitor General, who the next day made the following speech.

‘ Sir, I had yesterday the honour to second the
‘ motion made by the honourable gentleman who
‘ spoke last, and must beg your attention as to some
‘ points arising from the evidence that has been laid
‘ before this house.

‘ I have the pleasure, Sir, to observe, that every
‘ one who has occasion to speak upon this head,
‘ expresses the utmost detestation for the actors of
‘ what was not only an insult upon Majesty, but an
‘ open rebellion against justice, nay, against mercy
‘ itself. It has, I think, been pretty universally
‘ allowed, that it is out of the reach of common
‘ law to punish the neglect of duty in the Lord Pro-
‘ vost and citizens of *Edinburgh*, it being attended
‘ with some peculiar circumstances; and as I believe
‘ every gentleman of this house is of opinion, that
‘ such a neglect ought to be punished, I may ven-
‘ ture to affirm, that there was no other way of
‘ doing it but in the method that has been taken.
‘ The objection that seems to have the greatest
‘ weight as to this method, is the hardship of a man
‘ suffering by an act *ex post facto*; but the suppo-
‘ sing any such hardship, is to question the justice
‘ and

‘ and wisdom of former Parliaments, who have
‘ ever proceeded in this manner upon misdemeanors,
‘ which were out of the reach of the common forms
‘ of laws. Great pains have been taken to find a
‘ difference betwixt the misdemeanors for which
‘ other cities were punished by this house, and the
‘ behaviour of the city of *Edinburgh* in the late
‘ riot. But, Sir, tho’ two cases of this nature can-
‘ not be parallel to each other in every circum-
‘ stance, every case of a city losing its privileges by
‘ the censure of Parliament, amounts to a proof that
‘ there have been precedents of this nature, 8 or 9
‘ of which have been produced by the gentlemen
‘ who spoke against the bill. I am far from believ-
‘ ing that the Provost or magistrates of *Edinburgh*
‘ were actually aiding to the rioters when the un-
‘ fortunate *Porteous* was murdered, for if they had,
‘ the punishment would have been much more se-
‘ vere than what is implied in the present bill. And
‘ to shew that I am willing to allow all that can
‘ be reasonably expected in favour of the Lord Pro-
‘ vost and city of *Edinburgh*, I shall premise two or
‘ three things: The first is, That I lay no stress
‘ upon the circumstances preceding the murder of
‘ *Porteous*, nor do I think, that the town of *Edin-*
‘ *burgh* shewed any personal rancour to that unfor-
‘ tunate man in prosecuting him at their expences.
‘ It was no more, Sir, than what their duty requi-
‘ red of them, as he was a servant of their own, and
‘ the crime he committed was done while he was
‘ clothed with their authory, and in effect com-
‘ mitted against them: nor am I, Sir, of opinion,
‘ that they discovered any malice, but rather favour,
‘ in taking away his pension, and leaving him half
‘ a guinea a week for his subsistence while in pri-
‘ son, since it comes out in evidence, that they did
‘ not put it in their own pockets, but gave it to the
‘ other two captains who performed his duty; nor
‘ could the magistrates have been blamed, had they
‘ deprived

‘ deprived him of the whole. I farther admit, that
‘ the Provost behaved both circumspectly and im-
‘ partially, by leaving him to the judgment of an-
‘ other court, since by his own authority he might
‘ have tried and condemned him in his own.

‘ The counsel for the Provost has done well in
‘ considering his behaviour at three different periods
‘ of time; *viz.* before, during, and after the mur-
‘ der of *Porteous*. I shall likewise view it through
‘ the said periods, and make such observations on
‘ each, as I hope will fully prove the expediency
‘ and justice of the present bill. As for the first,
‘ it appears that the Provost had positive intelligence
‘ of a design formed to take *Porteous* out of the hands
‘ of justice, and to murder him. This was told him
‘ by Capt. *Lin*. But what did the Provost do on
‘ this occasion? He desired *Lin* to enquire into the
‘ grounds of such a report, which indeed was doing
‘ nothing at all; for he could not have employed a
‘ more improper person than *Lin*, who might justly
‘ be supposed to have been dreaded by the conspi-
‘ rators on account of his office, and who, unless he
‘ had been in concert with them, could never have
‘ come at the knowledge of the design; however,
‘ it seems the report increased to such a degree, that
‘ *Lin* thought it his duty again to acquaint the Pro-
‘ vost of it, and to desire the necessary orders to
‘ prevent it; but such was the Provost’s negligence
‘ and indolence, that he only laughed at him, and
‘ told him, that there was no foundation for such
‘ a report: Upon which *Lin* had this remarkable
‘ expression, *I wish you find it to be so.*

‘ I am well aware, Sir, of what has been said
‘ in behalf of the Provost, that the report was fixed
‘ for the *Wednesday*, not the *Tuesday*. I shall admit
‘ that to be fact; but cannot help concluding, that
‘ the necessary dispositions ought to have been made
‘ by the Provost to prevent it on the *Wednesday*.

‘ How does it appear that any orders for this purpose were given by the Provost? When *Lin* came for his orders the night before, he got none, tho’ he waited long at the door of the house where the Provost and Town-council were assembled, sent in his name to acquaint the Provost he was there, and told several of the members who went into the council, for what end he was waiting there. What is still more inexcusable and unaccountable, is, that it appears the city guard at that time was not provided with one flask of powder, or one pound of ball, tho’ it had been always the custom to furnish them with both the night before, when it was suspected any insurrection would happen the next day.

‘ If we can suppose that the Provost had been rendered more cautious with respect to the quelling of tumults by an armed force, from the melancholy effect that *Porteous’s* conduct had produced; yet, Sir, there was another method, which might have easily and effectually been used to prevent the designs of the conspirators, and to secure the unfortunate criminal from their rage, and a method too, so obvious, that it suggested itself to the very meanest capacities: This was, to have sent *Porteous* to the castle. What the Provost’s own evidence *Walker* has declared, makes it appear, that it was a current opinion, even among the mob themselves, that this measure would have been taken; for when he (*Walker*) heard the drum of the rioters, having asked his maid, *Why the drum was beating at that unusual hour*; she readily answered, *I fancy they are carrying Captain Porteous to the castle.*

‘ I believe, indeed, the original design of the rioters was to have hanged him upon the *Wednesday*; but it appears by the evidence given in, that this resolution was changed soon after the reprieve came down; and the report currently went for the *Tuesday*;

‘ day; nay, the report was so frequent for the *Tuesday*,
‘ day, that it is contrary to the rules of common
‘ sense to suppose the Provost could have been igno-
‘ rant of it: but, as I hinted before, how did it
‘ appear that he took the necessary precautions a-
‘ gainst it, even supposing it to have been fixed for
‘ the *Wednesday*; and why did he not act in the
‘ same manner upon the *Tuesday* before, as he had
‘ done the night before the execution of *Wilson*;
‘ which was, to give orders for all the three com-
‘ panies to mount guard, to let them have ammu-
‘ nition, and to call in the assistance of the regular
‘ forces, which by their readiness in assisting him at
‘ the execution of *Wilson*, he had no reason to be-
‘ lieve would have been refused him?

‘ I conceive, Sir, that I have said enough to prove
‘ the notorious neglect of duty in the Provost du-
‘ ring the first period of his behaviour; and how
‘ does it appear that he behaved better during the se-
‘ cond, *viz.* the time of the riot? An act of Par-
‘ liament has been urged by the gentlemen counsel
‘ for the town of *Edinburgh*, against the bill, which,
‘ if it makes any thing in favour of the citizens,
‘ throws the whole blame upon the Provost. It is
‘ an act, Sir, made in Queen *Mary* of *Scotland*’s
‘ time, and is still in force; it is intituled, *An act a-*
‘ *gainst staunching riots and tumultuous assemblies with-*
‘ *in the city of Edinburgh*; by which it is made felony
‘ in a citizen of *Edinburgh*, to assist in suppressing a-
‘ ny riot therein without the Provost’s orders. How
‘ does it appear, Sir, that the Provost gave any or-
‘ ders? Does it appear, that upon the repeated in-
‘ formations that he had of a tumult being to hap-
‘ pen, he issued out any commands to his citizens
‘ to be upon their guard, and to be in readiness to sup-
‘ press any such tumult? It is still more extraordina-
‘ ry, that he neglected the common method pre-
‘ scribed by law, which no one, especially one of
‘ his station, could be, or at least ought to be igno-
‘ rant

‘ rant of, I mean, that of reading the act against
‘ riots, of which he was even unprovided of a co-
‘ py. When, with a good deal of difficulty, a co-
‘ py of that act was procured, he made no attempt
‘ to read it, as he might have done, in the passage
‘ betwixt the door of the tavern where he was, and
‘ the street where the rioters were assembled;
‘ and I think, Sir, it appears very plain from the
‘ evidence, that that passage was clear. Another
‘ inexcusable omission that he was guilty of, was,
‘ that when he sent away for the assistance of the
‘ King’s forces, he neglected to write a letter, as he
‘ easily might have done, and as he had done upon
‘ former occasions: without which he had no reason
‘ to believe the troops would have marched to his
‘ assistance. It is true, Sir, that it was not to be
‘ expected, that a letter full of form and compli-
‘ ment could have been written at such a juncture,
‘ but sure, he might have written two lines, tho’
‘ it had been no more than this; *Sir, We are in the*
‘ *utmost danger, march your troops to our assistance as*
‘ *soon as possible.* This, Sir, had been the natural
‘ and proper stile, and would have better served to
‘ let General *Moyle* know the danger he was in,
‘ than a letter in any other terms. I must farther
‘ observe, that the honourable gentleman he sent, be-
‘ ing no magistrate, it would have been a very im-
‘ prudent step for General *Moyle* to have come to
‘ his assistance, upon a bare verbal message. For
‘ let me suppose the General had marched his troops
‘ upon the message that was sent him; he finds the
‘ gates shut against him; he forces them open; the
‘ mob resists; he gives orders to fire among them;
‘ several are killed; and these that are killed are
‘ soon found to have been innocent spectators;
‘ *Moyle* is prosecuted; he is asked, Why did you so
‘ and so? had you an order in writing from the
‘ Provost for entering the town? No! Had you a
‘ verbal order from him? No! Had you an or-
‘ der

‘ der either verbal or in writing from any o-
‘ ther magistrate? No! Did you not know, that
‘ without such orders the King’s troops are not to
‘ enter the city? Yes! What the fate of General
‘ *Moyle*, by the *Scotch* law, would have been in
‘ such a case, may be guessed by that of *Porteous*.
‘ One observation more, Sir, I would make, but I
‘ do it not with a design of throwing out any re-
‘ flection. When the honourable member, who
‘ was the messenger to General *Moyle*, went to him,
‘ why did he not propose to get the warrant, which
‘ the General by his instructions from his superiors
‘ required, from my Lord *Newhall*, whose house it
‘ seems was two miles nearer than that of my Lord
‘ Justice Clerk to whom he applied?

‘ I am far from asserting, Sir, that the Lord
‘ Provost, during the time of the riot, was quite un-
‘ active, and made no attempt whatever to quell
‘ it: But I think he might and ought to have made
‘ more frequent and more vigorous attempts. We
‘ see by one evidence, that it had been no hard
‘ matter to have driven the conspirators from before
‘ the doors of the justice court, where it appears,
‘ that if a very few men with fire arms had been
‘ posted, they might easily have forced the mob
‘ from about the prison-doors; since that evidence,
‘ supported only by other two, actually wrenched
‘ the weapons out of the hands of some of the con-
‘ spirators, and drove them to some distance. By
‘ what I have observed, Sir, I hope it appears, that
‘ the Provost has justly incurred the censure of this
‘ house by his behaviour during the second period
‘ mentioned. I shall now proceed to make a very
‘ few observations upon his behaviour during the
‘ third period. It has been proved, Sir, that next
‘ morning after the murder of *Porteous* was commit-
‘ ted, many of the rioters were seen standing near
‘ the body of *Porteous*, by several of the city coun-
‘ cil, among whom was an honourable member of
‘ this

‘ this house, who repaired to the spot. But it has
‘ not been proved that any attempt was made to
‘ seize any of them, except one, who after a very
‘ cursory examination was dismissed, because, for-
‘ sooth, they had no prison to put him into. Had
‘ they not the *Cannongate* prison, Sir, where the
‘ King’s forces kept guard, and where he would
‘ have been secure? Or can it be supposed, that if
‘ the Provost had been in earnest to have secured
‘ him, that he who commanded in the castle, would
‘ have refused to have received him as a prisoner ;
‘ or that the Provost could have been at a loss for
‘ a house, in which he might have secured him till
‘ the city prison was repaired? It is true, that
‘ near two hundred persons are pretended to have
‘ been examined, but can any good reason be gi-
‘ ven why the examinations of not above four or
‘ five of them were reduced to writing? It has been
‘ urged in defence of the Provost, that he was so
‘ much in earnest to discover the rioters, that he sent
‘ several to mix among the mob, that some of the
‘ conspirators might be discovered. But when one
‘ of those messengers from the Provost came back
‘ to the tavern, and said he knew one of them, and
‘ offered to tell his name, he was charged to hold his
‘ peace till a proper time, when he should be exa-
‘ mined : But, Sir, I must beg leave to observe,
‘ that proper time never yet came. Great strefs,
‘ Sir, has been laid upon the prevarication of some
‘ of the witnesses for the crown, and many endea-
‘ vours used to prove the bad Character of one of
‘ them ; but it is remarkable, that one of the prin-
‘ cipal witnesses against the bill has prevaricated
‘ much more strongly than any of those for it. The
‘ witness I mean is *Walker*, the city officer, who
‘ said, that he was sent by the Provost to wait up-
‘ on the Solicitor General for *Scotland*, and to re-
‘ ceive his orders, which he accordingly did. Be-
‘ ing asked, how long it was after the riot happened,
‘ that

‘ that he received such an order from the Provost ;
‘ he answered, within a day, or at most two, after
‘ the riot. Now, Sir, it appears by the Solicitor,
‘ who is an honourable member of this house, that
‘ he (the Solicitor) came not to town till ten or twelve
‘ days after the riot.

‘ Having thus gone through the behaviour of the
‘ Provost during the three periods I proposed, I
‘ shall be very short in what I have to say with re-
‘ spect to the town of *Edinburgh*. It has been in-
‘ sisted upon by the gentlemen counsel against the
‘ bill, that not one citizen of *Edinburgh* could be
‘ proved to be assisting in the riot. This, Sir, to
‘ me is one of the strongest arguments that they were
‘ assisting. For such a proof could only come out
‘ by the other townsmen, who, being equally con-
‘ cerned, found a mutual interest in concealing one
‘ another. It has been said, that it appears from
‘ the evidence of the honourable person who was sent
‘ to general *Moyle*, that it was the people in the coun-
‘ try who were principally concerned, since, to use
‘ that gentleman’s expression, when he returned
‘ from the general, he met the rioters pouring in
‘ shoals out of the city. Pray, Sir, can it be sup-
‘ posed, that if the rioters had been citizens, they
‘ would have been so mad as to continue in the city
‘ when the riot was but just over, and where it had
‘ been easy to have discovered them? Great com-
‘ plaints have been made of the hardships imposed
‘ upon the citizens of *Edinburgh* by the present bill,
‘ as it takes away their guard, and consequently de-
‘ prives them of their watch. But I cannot see any
‘ hardship in this at all, because the citizens have
‘ only enjoyed that guard since the revolution, when
‘ it was granted them in place of watching and
‘ warding, and I know not what should hinder them
‘ from returning to the same custom again. The
‘ gentlemen on the other side have likewise insisted
‘ much upon the hardships of proceeding against the
‘ Provost

‘ Provost and city of *Edinburgh* in this manner.
 ‘ There are only three methods, Sir, by which a
 ‘ parliamentary prosecution can be or hath been car-
 ‘ ried on. One, which has been long out of use, I
 ‘ hope never shall be revived; the second is by im-
 ‘ peachment, and the third is by bill, as in the pre-
 ‘ sent case. The two last are the only methods
 ‘ that could have been used against the Provost and
 ‘ citizens of *Edinburgh*. Had they been proceeded
 ‘ against by an impeachment, they could have had
 ‘ no chance to be acquitted but one, which is the
 ‘ judgment of the house of Peers, the law having
 ‘ put it out of the King’s power to interpose where
 ‘ the Commons are the prosecutors. But by the
 ‘ present method, if the party proceeded against is
 ‘ censured by the Peers, he has the chance of being
 ‘ acquitted by the Commons; and if condemned by
 ‘ both, he has still a farther chance, that the King
 ‘ will not pass the bill. For these reasons I am hear-
 ‘ tily for the commitment of this bill.’

Duncan Forbes Esq; Lord Advocate for Scotland,
 spoke next as follows, viz.

Mr. Forbes’s
 speech.

‘ Sir, as the post I have the honour to enjoy un-
 ‘ der his Majesty, obliged me to have some concern,
 ‘ both in the prosecution of the unfortunate *Porteous*,
 ‘ and in taking the examinations of the persons sup-
 ‘ posed to be concerned in his barbarous murder, I
 ‘ think it my duty to give my opinion in relation to
 ‘ the bill now depending before this house.

‘ I cannot believe, Sir, that any gentleman who
 ‘ has the honour to sit in this house, will question
 ‘ my having the most sincere detestation of the
 ‘ crime (whose consequences heaven avert!) and the
 ‘ greatest abhorrence of the actors of it. And, Sir,
 ‘ could it be proved that the magistrates and city of
 ‘ *Edinburgh* omitted the least measure that could
 ‘ have been taken to prevent the perpetration of it,
 ‘ I would

‘ I would be as forward as any gentleman in this
‘ house to give my vote for passing the present bill
‘ into a law ; nay, were the allegations in the bill
‘ proved, I think them of so heinous a nature, that
‘ I would willingly give up whatever could be said
‘ in favour of the city of *Edinburgh* from any preced-
‘ ing acts, nay from whatever may be urged even
‘ from an article of so solemn a treaty as the Union
‘ itself. But, Sir, before I enter into the point in
‘ question, I must declare to this august assembly,
‘ that whatever I speak in defence of the Provost and
‘ citizens of *Edinburgh*, does not proceed from any
‘ national prejudices ; for, I thank God, I am as
‘ free of them as any man ; and I am persuaded,
‘ from the candour, patience, and impartiality which
‘ this house has shewn throughout all the course of
‘ this examination, every gentleman here is of the
‘ same sentiments.

‘ There are two or three things, Sir, to which I
‘ beg the attention of this house, because they are
‘ circumstances upon which I lay a good deal of
‘ weight, and they may not a little influence gentle-
‘ men in the judgment they form of the justice or
‘ injustice of the present bill. The citizens of *E-*
‘ *dinburgh*, Sir, are divided into two classes ; one
‘ of which composes the corporation, pays scot and
‘ lot, and has the only right to vote in chusing their
‘ magistrates and representatives in Parliament ; the
‘ other class, Sir, consists of the very dregs of the
‘ people, who have not the least interest in any of
‘ these points ; they easily embrace, and are much
‘ pleased with every opportunity of being tumultu-
‘ ous. Should the present bill pass into a law, it
‘ would be directly formed to favour the latter, who
‘ were the authors of the murder of *Porteous*, in case
‘ he was murdered by any who lived within the ju-
‘ risdiction of the city of *Edinburgh* ; and to censure
‘ the former, who, it appears from the evidence
‘ given at this bar, has an interest in quelling every
‘ riot

‘ riot of the like nature with that which is now under your consideration, and who actually, as I hope to shew more at length by and by, did use their utmost endeavours to quell the riot which gives rise to the present bill.

‘ There is another point, Sir, upon which I lay a good deal of stress, and which may not a little influence the resolutions of this house ; and that is, the form in which the city of *Edinburgh* is built. Were I capable to give you any idea of it by describing it, I am persuaded every gentleman here would think it a circumstance of great importance in the present case. The city of *Edinburgh*, Sir, consists of one principal street, with which a great number of lanes (which you have heard called in the evidence closes and wynds) communicate. As my business obliges me to be at *Edinburgh* for at least six months every year, I had many opportunities of making observations, which now convince me of the hardships that would attend the passing of the present bill into a law. Upon this street, twice every day there are seldom fewer than 1500 people walking ; and towards the middle of it the guard-house, which by the present bill is to be demolished, stands. The soldiers, by this situation of their guard-house, are always ready upon the first notice of any commotion (as commotions must frequently happen in such a concourse of people) to interpose ; and, Sir, I have frequently seen, where they have been the means of preventing a good deal of mischief. It has been mentioned, Sir, that the citizens may return to their old custom of watching and warding, when this guard is taken away ; but that, Sir, would be putting them to a very great hardship. The nature of that watch and ward was, that each burgher, for perhaps five or six days in a month, should mount guard. This was found so inconvenient, by its being attended with a great loss to their private business, that upon a
‘ repre-

‘ representation made to the government, of their
‘ services at the revolution, the present guard was
‘ granted by the Parliament, and confirmed to them
‘ by the glorious King *William*.

‘ One of the first incidents that happened after I
‘ came to act any part upon the stage of life, was a
‘ proof to me of the service this guard may be upon
‘ some occasions. And I shall the rather mention
‘ it, because I hope it will serve to shew how early
‘ I endeavoured to shake off those foolish but fatal
‘ prejudices, that reigned among the subjects of that
‘ part of the united kingdom against the *English* :
‘ One *Green*, a master of an *English* vessel, having
‘ been forced by strefs of weather into the harbour
‘ of *Leith*, a report was spread that he was a pirate ;
‘ upon which he and his officers were taken up, tri-
‘ ed, and upon the evidence of some of his crew,
‘ no two of which concurred in their evidence, con-
‘ demned, for murdering one *Drummond*, and seiz-
‘ ing his ship. I was present at the whole trial, and
‘ was sensible with what partiality and injustice it
‘ was carried on : The unfortunate men seemed to
‘ me to have no other crime but that of being *Eng-*
‘ *lishmen*, and of being obliged to put into *Scotland*
‘ at a time when great animosities were subsisting in
‘ that kingdom, on account of some proceedings
‘ against the natives of *Scotland*, which were judged
‘ there to be unjust and harsh. For those, and no
‘ other crimes, this poor unfortunate gentleman, and
‘ the officers of his ship, were to suffer an ignomi-
‘ nious death : The populace, in the mean time,
‘ began to have a surmise, that the privy counsel,
‘ which sat that time at *Edinburgh*, intended to re-
‘ prieve the criminals. As every surmise to an en-
‘ raged mob is a proof, they attacked the Lord
‘ Chancellor, beat his chair in pieces, and obliged
‘ him to fly for his life ; and had it not been for the
‘ city guard, who rescued him with their bayonets
‘ upon the muzzles of their guns, they had torn him

‘ to pieces. They afterwards went and knocked at
‘ the door of the house where the privy council was
‘ sitting, bauling out for the blood of these persons ;
‘ and the privy council, in a mean and scandalous
‘ manner, gratified them, by signing an order for
‘ their execution that very day. I was so struck
‘ with the horror of the fact, that I put myself in
‘ deep mourning, and with the danger of my life
‘ attended the innocent but unfortunate men to the
‘ scaffold ; where they died with the most affecting
‘ protestations of their innocence. I did not stop
‘ here, for I carried the head of captain *Green* to the
‘ grave ; and in a few months after letters came
‘ from the captain, for whose murder, and from
‘ the very ship for whose capture the unfortunate
‘ persons suffered, informing their friends that they
‘ were all safe. These letters, Sir, were of a date
‘ much later than the time when the crimes for
‘ which *Green* was condemned were pretended to be
‘ perpetrated.

‘ This instance, Sir, I hope, will serve to shew
‘ how headstrong mobs have formerly been in that
‘ country, and how useful the city guard has been
‘ in quelling them. Allow me now, Sir, to confi-
‘ der the conduct of the Lord Provost of *Edinburgh*
‘ during that unparaelled insult upon all laws and
‘ government, which happened when the unfortu-
‘ nate *Porteous* was murdered. And indeed, Sir,
‘ I own I think it comes pretty plain out in the
‘ evidence, that he behaved not only with prudence,
‘ but zeal, nay with a courage which could scarce be
‘ expected in a much younger, and a much more
‘ active man. No evidence of any credit, Sir, has
‘ yet pretended to say, that the Lord Provost or
‘ magistrates of *Edinburgh* had information of this
‘ riot’s being to happen on the day on which it did
‘ happen. It is true, one *Baily* is so rash as to own,
‘ that he drank with some of the conspirators, who
‘ defended the justice of the murder, some days be-
‘ fore

fore it was perpetrated, and that he himself was present during the riot: After an acknowledgment of this kind, I leave it to this house to judge, what credit ought to be given to a man, who, in some sense, owns his being accessary to the murder himself. As to Mr. *Dun*, the other evidence that spoke the fullest to this point, the house has already heard too much of his character from gentlemen of unquestioned probity and honour, for me to make any remarks upon what he has advanced. It is true, there is one evidence of an undoubted character, I mean captain *Lin*, who seems to make it suspected, that the Lord Provost had information given him of the riot's being to happen on the *Wednesday*: But, Sir, does it appear by that gentleman's evidence, that if he did believe it himself, he acquainted the Provost or any of the town-counsel of his grounds of belief? He says he came and acquainted the Lord Provost that such a report was current: the Lord Provost asked him, if he believed such an attempt would be made? of whom he had heard the report? and if it met with any credit among the men of sense he conversed with? His answers to these questions were, That if such an attempt was made, he did not believe it would be before the day fixed for the execution of *Porteous*; and that the report was spread only among women and children, and entertained by fools. And, Sir, he gave a very good reason before this house why he did not believe it, which was, that he judged it impracticable for the mob to undertake and to succeed in any such attempt. I must farther observe, with respect to the Lord Provost, that he was so cautious and so unwilling to let slip any opportunity of receiving information in this affair, that he caused captain *Lin* to walk into the room where the other gentlemen in company were, and to repeat what he had said; asking at the same time of these other gentlemen (one of whom is a

‘ worthy member of this house) if they had heard
‘ of any such report ; who all agreed that they had
‘ heard nothing of it, except from persons of so lit-
‘ tle authority and credit, that they did not think
‘ it worth while to raise any alarm about it. I can-
‘ not but observe likewise, that the captain’s own
‘ conduct shewed how little credit he thought was
‘ to be given to the report, since he left the town
‘ on the *Friday* afternoon, and did not return till
‘ the *Monday* following, which was the day before
‘ the riot happened. But, Sir, to put the zeal and
‘ care of the Lord Provost beyond the possibility of
‘ being questioned, he did not slight this informa-
‘ tion, groundless as it seemed, but called a council,
‘ where it was resolved to have all the three compa-
‘ nies of the city guard upon duty, and that the offi-
‘ cers of the train’d bands should be in readiness up-
‘ on the *Wednesday* ; for I must again observe, Sir,
‘ that there has not the least circumstance come out in
‘ evidence to prove that the report went of the riot
‘ being to happen upon the *Tuesday*, the day on which
‘ it actually happened. The objection, Sir, that is
‘ made, with respect to the city guard not being pro-
‘ vided with powder or shot, if we consider the evi-
‘ dence upon that head, can never affect the Lord Pro-
‘ vost. It appears, that the officer who commanded
‘ the guard, always applied to the city treasurer, when
‘ his men wanted powder and shot, who gave an order
‘ to the store-keeper for what ammunition was requir-
‘ ed. If no such intimation, Sir, was made to the Lord
‘ Provost, or to the city treasurer ; if the captain, whose
‘ business it was, did not make the usual application,
‘ in order to have his men supplied with ammuni-
‘ tion, I hope no gentleman in this house will im-
‘ pute it to the Lord Provost, who is no military
‘ man, and cannot be supposed to be acquainted with
‘ these matters, that they were not supplied. In
‘ short, Sir, I cannot see the least grounds for found-
‘ ing the present bill upon any circumstance of the
‘ Lord

‘ Lord Provost’s behaviour before the riot happened. It appears to me, Sir, that he used all the precautions that any wise man could have used upon such an occasion, and that he committed no other blunder in conduct, except that of not acting contrary to the advice and the judgment of every man about him, who were all of opinion, that if there was any foundation for the report of a riot’s being to happen on that occasion, it would not happen before the *Wednesday*, which was the day appointed by the Judges of *Porteous* for his execution; and that to make any appearance of providing against the riot before the said day, was the readiest way to occasion a riot. And allow me, Sir, to say, the thing bespeaks itself; the rebels had no certainty of any reprieve having come to the unfortunate person; so that it was fairly to be presumed, they would wait to see if they could obtain in the course of law, what they otherwise were resolved to obtain by violence.

‘ As to the Lord Provost’s behaviour, during the melancholy time when that barbarous riot happened, I think, Sir, it has been admitted by the learned gentlemen who spoke for the commitment of this bill, that he had used several efforts to quell it, but might have used more and stronger; it has likewise been said, Sir, that he neglected the proper means of suppressing it. How he could have used stronger efforts than he did use, is, Sir, what I cannot easily apprehend. Has it not appeared, from the evidence given at the bar of this house, that he no sooner was informed of the appearance of a disorder, than he dispatched away the captain of the city guard, in order that he might draw out his men, that he (the Lord Provost) might put himself at their head and march against the rebels? Has it not appeared, Sir, that he was as good as his word, that he followed the captain with as much, nay more expedition than could have been

‘ expected from his age and infirmities? He met the
‘ captain returning from the guard-house, from
‘ whence the violence of the rioters had forced him.
‘ The hopes of suppressing them by means of the
‘ guard having failed, the most natural and the most
‘ probable method was, to apply for assistance from
‘ the King’s troops. This dangerous commission
‘ was readily accepted of by an honourable member
‘ of this house, who executed it with great difficulty
‘ and hazard. It has been objected, Sir, that no
‘ letter was written, requiring general *Moyle* to march
‘ his troops into the city, and that without such a
‘ letter there was no reason to expect that he would
‘ come to the assistance of the magistrates; but,
‘ Sir, it appears there was not time even to write
‘ a letter, though it had been as short as was pro-
‘ posed by a learned gentleman; and the honoura-
‘ ble gentleman who was dispatched from the street
‘ (for I must observe that he went from the street,
‘ not the tavern) has declared in evidence, that
‘ though such a letter had been written, he would
‘ not have carried it, because if he had been seized
‘ upon by the rioters, and if such a letter had been
‘ found about him, there was no room to doubt but
‘ that they would have treated him with as little
‘ ceremony as they afterwards shewed to *Por-*
‘ *teous*.

‘ In the mean time, Sir, it seems the violence of
‘ the mob rose to such a height, that there was a
‘ necessity for the magistrates to take some other
‘ measures for the common safety. It was propo-
‘ sed that the alarm bell should be rung in order to
‘ bring the citizens to the relief of their magistrates:
‘ But such, Sir, was the foresight of the rebels, that
‘ they had seized the tower in which this bell hung,
‘ so that there was no possibility of getting at it. It
‘ was then proposed, Sir, to send the proper officer
‘ to raise the captains and heads of the train’d bands;
‘ but this expedient fail’d likewise; you have heard
‘ by

‘ by what means it did fail, and that neither the
‘ Lord Provost, nor any other magistrate was to
‘ blame.

‘ The Lord Provost, that nothing on his part
‘ might be omitted, likewise made another attempt,
‘ in person, to suppress the rioters. And it was,
‘ Sir, an attempt so hazardous, that there are very
‘ few civil magistrates but would have thought they
‘ had done their duties very well, tho’ they had not
‘ gone so far. The numbers that accompanied the
‘ Lord Provost, Sir, were much disproportioned to
‘ that of the rebels; the rebels were arm’d, those
‘ with the Lord Provost without arms; yet all this
‘ did not hinder the Lord Provost from advancing
‘ against them, till several of his company were
‘ wounded with stones, till even fire-arms were le-
‘ velled at them, and till the bravest and boldest in
‘ the company thought it prudent to retreat, be-
‘ cause to have done otherwise, would have been
‘ for the magistrates to have exposed both their per-
‘ sons and authority to the insults of a barbarous and
‘ an enraged multitude. The Lord Provost at last,
‘ Sir, did retreat, and the rebels perpetrated their
‘ bloody resolutions. Now, Sir, if we take a view
‘ of the Provost’s whole conduct upon this melan-
‘ choly occasion, I would gladly know of any gen-
‘ tleman, who has heard the examinations of the
‘ evidence, if it appears that the Lord Provost omit-
‘ ted any measure that was proposed to him for the
‘ suppression of this unhappy riot.

‘ As to his behaviour after the riot was over,
‘ Sir, I have heard of only one positive circum-
‘ stance that has been advanced against it, which is,
‘ the not imprisoning the man who was seized in the
‘ Grass-market the next day. But how, Sir, can
‘ that circumstance affect the Lord Provost, who ap-
‘ pears never once to have seen or to have heard of
‘ that man till he was dismissed? And indeed, I

‘ think the gentlemen who seized that man, had
‘ they pretended to have put him in prison, would
‘ have bid fair to have renewed the tumult; since,
‘ as you have heard, the rebels were yet upon the
‘ spot in great numbers, and with a shew of resolu-
‘ tion; this, Sir, the rioter who was seized, seems
‘ to have been well aware of; otherwise it can ne-
‘ ver be supposed he would have been so mad as to
‘ remain upon the very spot of execution, and to al-
‘ low himself tamely to be seized.

‘ The honourable gentleman, Sir, a worthy mem-
‘ ber of this house, who is my colleague in the post
‘ I have the honour to fill in that country, is a per-
‘ son, whose zeal for his Majesty’s service, can be
‘ as little questioned as his abilities, which I am sure
‘ are very great; the honourable gentleman, Sir, I
‘ say, can witness how indefatigable, how zealous,
‘ nay, I may say, how keen the Lord Provost was
‘ in promoting whatever could contribute to disco-
‘ vering the conspirators; so that if they were not
‘ discovered, it was not owing to him but to us;
‘ and if this house is resolved to pass the present bill
‘ into a law, on account of any neglect that hap-
‘ pened upon that occasion, it is but just that you
‘ should strike his name out of the bill, and clap
‘ in the names of a couple of your own members.

‘ Thus, Sir, I have given my opinion, with re-
‘ spect to the insufficiency of the evidence for pass-
‘ ing the present bill into a law, and I have done it
‘ in the sincerity of my heart; for what motive, Sir,
‘ can I have in what I have spoken, but the dis-
‘ charge of my duty as a member of this house? It
‘ is more than probable, Sir, that I shall never
‘ trouble you again with my sentiments upon this
‘ or any other subject, but my conscience would ever
‘ afterwards have accus’d me, if I had quitted my
‘ seat here, before I had given my reasons why I
‘ think the present bill should not be committed.

‘ I am

‘ I am very sorry, Sir, that I should differ from
‘ my honourable and learned friend who spoke last ; General Wade's speech.
‘ I think it is the first time I ever had occasion to
‘ do so, and I hope it shall be the last. I was not
‘ in *Scotland*, Sir, when the murder of Capt. *Porteous*
‘ happened ; but when I went down to that
‘ country, I found my honourable and learned
‘ friend, and his colleague, who is likewise an ho-
‘ nourable member of this house, employed in ta-
‘ king examinations, and using proper means for
‘ detecting the inhuman actors of it ; and indeed I
‘ should be unjust to them both, if I did not own
‘ that they show'd as hearty a zeal in their pro-
‘ ceedings, as the best friend to His Majesty and
‘ the present government could have wish'd for : But
‘ I hope both these honourable and learned gentle-
‘ men will forgive me, if I mention one circum-
‘ stance, which, tho' very probably it has escaped
‘ the memory of my worthy friend, yet it is of
‘ great weight with me, and leaves me no room to
‘ doubt, that the conspirators had originally form-
‘ ed the design of murdering Captain *Porteous* upon
‘ the *Tuesday*, that this design was openly talk'd of,
‘ and that the citizens and inhabitants of *Edinburgh*
‘ were the actual authors of the murder. My autho-
‘ rity for this, Sir, is the more unquestionable, as it
‘ is founded on an authentic copy of an examina-
‘ tion upon oath inclosed within a letter to me,
‘ which I have now in my hand : The letter was
‘ sent, and the examination taken by one of
‘ the honourable and learned gentlemen I have al-
‘ ready mentioned. The deponent, Sir, was ser-
‘ vant to one *Collin Alison*, wright, in *Edinburgh*,
‘ and makes oath, that on the *Thursday* or *Friday*,
‘ before the 6th of *September* last, one ————
‘ came into his master's shop, where and while he
‘ was at work, and inform'd both him and his fel-
‘ low servant, that *Tuesday* next was the day ap-
‘ pointed for revenging innocent blood, and that
‘ he

‘ he hoped they, the deponent and his said fellow ser-
‘ vant, would not fail to attend, and assist those who
‘ were to hang the bloody murderer *Porteous*, by 10
‘ of the clock at night, upon the signal given, which
‘ was to be, a ruff of a drum. This, Sir, I be-
‘ lieve, will convince every gentleman here, that
‘ the design of murdering *Porteous* was no such
‘ mighty secret, as the gentlemen counsel against
‘ the bill, and my honourable and learned friend
‘ seem to believe. And indeed, Sir, if we take a
‘ view of the whole proceeding in that barbarous
‘ murder, we find nothing in it that looks like the
‘ precipitate measures of a giddy mob ; no,
‘ they went coolly, and regularly to work ; and
‘ for my share, I never was witness to, or ever
‘ heard of any military disposition better laid down,
‘ or more resolutely executed than their murderous
‘ plan was. Can we imagine, Sir, that the consul-
‘ tations of so numerous a mob could be a profound
‘ secret to all the citizens of *Edinburgh* ? Or can we
‘ imagine, that these consultations were held only by
‘ people in the country, who live at a distance from
‘ each other ?

‘ As my name has been mentioned with respect to
‘ the orders that Mr. *Moyle* had of me, it is natural
‘ to think that I should take some notice of the part
‘ which that gentleman acted, and the authority
‘ upon which he did act : That I may do this more
‘ distinctly, I think it will not be amiss if I tell a
‘ story (tho’ I own I am a very bad story-teller)
‘ which happened within my own knowledge, and
‘ while I served in *Spain* : A captain of an *English*
‘ Man of War, whose ship was station’d in the bay
‘ of *Lisbon*, happened to receive undoubted advice,
‘ that the *Toulon* and *Mediterranean* squadrons were
‘ to join, in which case the enemy would have ta-
‘ ken *Barcelona*, and the interest of King *Charles* in
‘ *Spain* would have been ruined. The captain, with-
‘ out any warrant, set sail, and made such expedi-
‘ tion,

‘ tion, that he came up to Sir *George Rook*, who
‘ was our admiral at that time in the *Mediterranean*,
‘ and discovered the design of the enemy. Sir
‘ *George* was immediately sensible of the importance
‘ of the advice, and the successful expedition of the
‘ captain. You have done a very important piece
‘ of service, Sir, said Sir *George* to the captain: You
‘ have saved the crown of *Spain*, and the honour of
‘ your country by your diligence; but do you not
‘ know that you are this instant liable to be shot
‘ to death, for disobeying orders, by leaving your
‘ station. Take my advice, Sir, continued he, and
‘ come what will, another time, keep yourself close
‘ by your orders, and then you are safe.

‘ Gentlemen can easily make the application of
‘ this story to the case of Mr. *Moyle*: He might
‘ indeed have prevented the riot, had he upon the
‘ same warrant he had to take such a step, broke
‘ down (or, as he owned upon examination he would
‘ have done) blown up with powder the city gate;
‘ but then he must have risked his own life, even
‘ tho’ he had succeeded. The aversion of the peo-
‘ ple of that country, Sir, to the gentlemen of the
‘ army is very great, and Mr. *Moyle* undoubtedly
‘ acted the wisest part; for there is no room to sup-
‘ pose he would have met with much favour from
‘ the witnesses, had his conduct been brought to a
‘ tryal in a civil court. I am therefore of opinion,
‘ that we shall do very well if we make an example
‘ of the city of *Edinburgh*, for the part her citizens
‘ acted in this inhuman affair, and I am apprehen-
‘ sive of no consequences arising from our resolution,
‘ but what are good.

‘ Sir, what was advanced by the two honourable
‘ and learned gentlemen, who spoke first in favour
‘ of this bill, has absolutely determined me to op-
‘ pose it, and all bills of this nature. Indeed, I
‘ never was a friend to them, but I never saw so
‘ clearly into the bad consequences of their passing
‘ into

Mr. Ship-
pen's speech.

‘ into laws. The arguments that have been made
‘ use of by the honourable and learned gentlemen
‘ who opened the debate, in my opinion, may
‘ equally affect any person, be he ever so innocent, if
‘ he is obnoxious to the ministry. It is true, a bill
‘ pretty much of the same nature, was brought in
‘ during the reign of King *William* against Sir *John*
‘ *Fenwick*; but the measures that gentleman and his
‘ friends took to screen themselves from justice, were
‘ such as left it impossible to bring any positive proof
‘ to condemn him, any other way than by a bill *ex*
‘ *post facto*. And the Parliament was at that time
‘ so sensible of this truth, and the unanswerable ob-
‘ jections that might be brought against a bill *ex*
‘ *post facto*, that when the counsel for Sir *John* ap-
‘ peared at the bar of this house, they were ordered,
‘ from the chair, to proceed directly upon the facts
‘ as laid down in the bill, and not to argue against
‘ the bill as being *ex post facto*, the house having
‘ come to a previous resolution not to admit of any
‘ debate upon that point. But, Sir, as we have come
‘ to no such resolution, we are to be determined by
‘ the evidence that has been laid before us, and not
‘ by the secret views of any minister, or the unrea-
‘ sonable prejudices of any party.

‘ Were I to be asked, Sir, by what extraordinary
‘ means it has happened, that this session of Parlia-
‘ ment is protracted to so extraordinary a length,
‘ and upon so extraordinary an affair; as I am not
‘ in the secret, I own, Sir, I should be at a loss what
‘ to answer.

‘ Should I be believed, Sir, if I should say that
‘ we were employed in incapacitating an old man
‘ (I think somebody called him an old woman) who
‘ I believe will think this part of his punishment
‘ rather a favour than a punishment, and who, by
‘ the character I have of him, was never designed
‘ by nature for overthrowing governments; and in
‘ punishing him in his natural capacity for what he
‘ acted

‘ acted in his civil? That we were all this time employed in depriving the citizens of *Edinburgh*, who did their utmost to quell the riot in question, of their guards and gates? This answer, Sir, would appear so ridiculous, that I am afraid I should be obliged to send the person who asked me, to certain gentlemen on the other side of the chair (I did not mean you, Sir, bowing to Sir *Robert Walpole*) for farther satisfaction.

‘ We were told not long ago, Sir, that we must have a preventive bill: What name the present bill ought to go by, is what indeed I am at a loss to conceive. It is plainly calculated, not to prevent future evils, but to punish past accidents, which it was impossible for the persons who are the subjects of the bill, to prevent. But to me, Sir, the plain and natural tendency of the bill is, to turn the metropolis of an once independent kingdom into a military garrison. And, Sir, it has always been my opinion, that the execution of the laws by a military force is the surest symptom of a distressed administration, and a consumptive constitution.’

After him *Charles Areskine* Esq; spoke to the purport following :

‘ Sir, what the honourable gentleman, who spoke last except one, has mentioned with respect to the extract of an examination taken by me, and communicated to him, is certainly fact; but I must beg leave to say, it appeared, that the person who was so mad as to make that information, was no inhabitant of the city of *Edinburgh*; and that it does not appear, that information of it was given to any one of the magistrates, or members of the council, nay, or to any considerable person in the place; so that no farther use can be made of the circumstance produced by the honourable gentleman, but
‘ that

Charles Areskine's speech.

‘ that there was a design formed by people without
‘ the city, to execute the barbarous murder ; for a
‘ single instance, Sir, never can be a proof, that the
‘ design of murdering *Porteous* on the *Tuesday*, was
‘ openly talked of in the city of *Edinburgh* ; and
‘ unless that is proved, nothing is proved. It was
‘ never disputed but that there was a general report,
‘ that the mob designed to murder *Porteous* ; but the
‘ question is, if that report fixed it for ~~the~~ *Tuesday*,
‘ or if the Provost, or any of the magistrates or ci-
‘ tizens had any reason, from the information given
‘ to them, to make any greater preparation to pre-
‘ vent it, than they actually did.

‘ I cannot but observe, Sir, with respect to the
‘ terms in which the present bill is conceived, that
‘ it is in the power of a Secretary of State to make
‘ the censure inflicted upon the Lord Provost very
‘ heavy. It was insinuated, Sir, at the bar of this
‘ house, that the imprisonment of the Lord Provost
‘ would be but a state-imprisonment ; and how easy
‘ and gentle that is (said the gentleman) the late ex-
‘ ample of *Kelly* is an instance. I am far from sus-
‘ pecting that either of our Secretaries of State would
‘ make a bad use of his power ; but it is plain, that
‘ by this bill, he may if he will. The bill, Sir,
‘ bears, that the Lord Provost is to be imprisoned
‘ in any place of his Majesty’s dominions in *Great*
‘ *Britain* for a year : The *Orkney* islands, *Shetland*,
‘ *Guernsey*, *Jersey*, are all in the dominions of *Great*
‘ *Britain* ; and how uncomfortable would a banish-
‘ ment to any of these places be to a man of the
‘ Lord Provost’s age and manner of life ! There is
‘ a noted instance, Sir, of what I have now men-
‘ tioned, in the *English* history, in King *Charles* the
‘ first’s time : Three gentlemen of the different pro-
‘ fessions of the law, divinity, and physic, were sen-
‘ tenced by the Star-chamber to suffer a year’s im-
‘ prisonment, but before the year was expired, an
‘ order came from the Secretary of State, to confine
‘ the

‘ the one to *Jersey*, the other to *Guernsey*, and the
 ‘ third to *Scilly*. This unseasonable severity, Sir,
 ‘ exasperated the minds of the people so much, that
 ‘ if we may believe the historians of that time, no-
 ‘ thing contributed more to the universal odium which
 ‘ the nation entertained afterwards against the King’s
 ‘ measures. No nation, Sir, ever was more jealous
 ‘ of their liberties than the *Scots* always have been,
 ‘ or more susceptible of prejudices against their go-
 ‘ vernors, whenever they think themselves oppressed;
 ‘ and as they, especially the citizens of *Edinburgh*,
 ‘ have still behaved dutifully to the present govern-
 ‘ ment, under which they have hitherto enjoyed their
 ‘ liberties, I think no gentleman, who is a friend to
 ‘ our present happy constitution, will be for the com-
 ‘ mitment of this bill.’

Mr. Serjeant *Skinner* was the next who spoke, and to this effect:

‘ Sir, I do not think my bare vote for the com-
 ‘ mitment of this bill is enough to acquit me of my
 ‘ duty to his Majesty and my country, without my
 ‘ expressing, in a more particular manner, my ab-
 ‘ horrence of the detestable action which gave rise
 ‘ to the bill, and giving the reasons why I am for
 ‘ its commitment.

Mr. Ser-
jeant *Skinner*’s speech.

‘ The people, Sir, in all ages, and all countries,
 ‘ have been on the side of mercy, and it has been
 ‘ frequently seen here in *England*, that a criminal has
 ‘ by this merciful inclination of the people, been re-
 ‘ scued from the just severity of the laws; but it
 ‘ was never seen, when the mercy of the Sovereign
 ‘ was extended to a criminal, that the people frus-
 ‘ trated this mercy, by barbarously dragging him
 ‘ before the tribunal of their own inhumanity, and
 ‘ embrewing their hands in his blood: this, Sir, is
 ‘ an action of so black a dye, that I think a brand
 ‘ of infamy ought to be affixed upon those who
 ‘ heard

' heard of so barbarous a design, and yet were so
 ' indolent (to call them no worse) as to make no
 ' preparations to prevent it; and upon the citizens,
 ' who, while it was perpetrating, had neither in-
 ' clination nor courage to prevent it; and when it
 ' was over, were so faithful to rebellion and murder,
 ' as to conceal the authors of it. We have heard a
 ' great deal, Sir, from the gentlemen counsel against
 ' the bill, about the privileges of the royal burghs
 ' in *Scotland*; but this was not much insisted upon
 ' by the honourable and learned member who spoke
 ' first against the bill, who well knows, that when a
 ' tumult happened in the city of *Glasgow*, another
 ' of their royal burghs, that the magistrates there
 ' were brought into the city of *Edinburgh*, and this
 ' house passed a bill amerciating the citizens of *Glas-*
 ' *cow* in a sum of 5000*l.* towards damages sustained
 ' by an honourable member of this house, by their
 ' undutiful behaviour in that tumult. Gentlemen,
 ' Sir, have been pleased to mention the case of *Bur-*
 ' *ton, Prynne, and Bastwick*, in King *Charles* the First's
 ' time: They might have added, that when, by
 ' means of the Parliament, these three gentlemen
 ' were recalled from their banishment, they were
 ' met several miles out of town, upon their return
 ' to *London*, by the citizens, who attended them
 ' thro' the city in triumph, and with the greatest
 ' demonstrations of joy: But if any such triumphs
 ' and honours are designed by the citizens of *Edin-*
 ' *burgh* for their Lord Provost, I hope they shall
 ' have no opportunity of paying them till twelve
 ' months after the passing of this bill into a law, for
 ' which I heartily give my vote.'

Lord Cornbury spoke next, in substance as follows:

Lord Corn-
bury's
speech.

' Sir, I have as great a detestation of the authors
 ' of the inhuman murder, which gave rise to the
 ' present bill, as the honourable and learned gentle-
 ' man

‘ man who spoke last, or as any gentleman in this
‘ house, and am equally fond of having an oppor-
‘ tunity publicly to express my abhorrence both of
‘ the principles and persons of the murderers. But,
‘ I believe, every gentleman will allow, that they
‘ are not the subjects of the bill now before us, and
‘ consequently, ought not to be the subject of the
‘ debate; for I believe every one will very readily
‘ agree to the severest things that can be said of them,
‘ because the more severe, the more just. There is
‘ none who disputes that there was a most outrage-
‘ ous insult committed against humanity, against
‘ mercy, and against Majesty, in the murder of *Por-*
‘ *teous*: But what is immediately under our confi-
‘ deration, is, Whether or not the Lord Provost
‘ and citizens of *Edinburgh* were guilty of treachery,
‘ indolence, or cowardice in not taking proper mea-
‘ sures to prevent the murder after it was concerted,
‘ to suppress it before it was executed, to discover
‘ the murderers when it was over. These are points,
‘ Sir, of which we are to judge; not by the me-
‘ diums of our own passions and private resentments,
‘ which perhaps are much influenced and quickened
‘ by the horror that every honest mind entertains
‘ against the murderers of *Porteous*, but by the course
‘ of evidence that has been laid before this house.
‘ And however dangerous to government the im-
‘ punity of the murderers may be, however pro-
‘ voking their insolence, and however aggravating
‘ the circumstances of the murder were, yet if it ap-
‘ pears by the evidence laid before us, that the Pro-
‘ vost and citizens of *Edinburgh* are not guilty in the
‘ terms of the present bill, we can never with justice
‘ agree to its passing into a law.

‘ All the evidence, Sir, has been very fully exa-
‘ mined by both parties, and no circumstance of
‘ any weight, I believe, has been omitted to give us
‘ a clear view of what passed at that unhappy junc-
‘ ture which occasioned the present bill. As I think,

‘ Sir, on the one hand, it is of the greatest consequence to government, that the facts alledged in the bill, if proved, should be exemplarily punished ; so on the other hand, Sir, I am of opinion, that it is of the greatest consequence to our constitution, not to bring in bills of this nature, but in cases which cannot come under the cognizance of any inferior court. And this house, Sir, has always shewed great reluctance to proceed against any, by bills of this kind, if there was a possibility that the delinquent could be convicted by any other method of proceeding. And will not after-ages, Sir, be at a loss to conceive what the heinous circumstances were, with which the crime of the Lord Provost was attended, so as to make it impossible for a Parliament of *Great Britain* to proceed against him in any other way than by a bill *ex post facto*, and that too in a reign wherein lenity had been long the favourite and the successful art of government?

‘ If posterity, Sir, shall farther examine into the grounds of the present bill, and find that not one point of it was proved, either against the Lord Provost, or magistrates of *Edinburgh* ; if it shall be found that they were so far from being guilty in terms of the bill, that they in some measure deserved the approbation of the legislature for the courage, zeal, and activity they shewed, both in endeavouring to prevent the murder, and in bringing the murderers to justice ; will not they be yet more at a loss to account for a proceeding so arbitrary ? A proceeding, Sir, which may be made a precedent, whereby a future corrupt ministry may remove any man, who by an unfashionable virtue or innocence may give them uneasiness. And I am persuaded that every gentleman in this house, if he rightly considers, will rather chuse that the Lord Provost should escape, even tho’ it appeared that he did not act with the same spirit and

and activity, which a younger man would have exerted upon the same occasion; I say, he will chuse that the Lord Provost should escape our censure, rather than that, by giving his vote for the present bill, he should leave a legacy which may prove so fatal to his children.

‘ It has been said, Sir, that power and authority
‘ are two different things ; but this never can be,
‘ if power is attended with justice. Power, when
‘ founded on justice, Sir, is authority, but when
‘ exerted without justice, tyranny. I have given
‘ all the attention, of which I was capable, to the
‘ evidence that has been laid before this house, and
‘ I will be bold to say, from what appears to me,
‘ that if the present bill passes into a law, it may
‘ be an act of power, but it never can be an act of
‘ authority. Has it been proved, Sir, that the Lord
‘ Provost received information when the riot under
‘ our consideration was to happen, and that he
‘ neglected the necessary precautions to prevent it?
‘ Has it not been plainly proved by the evidence,
‘ both for and against the bill, that he made the
‘ same dispositions to prevent it, upon the *Wednes-*
‘ *day*, the day on which, by his information, it was
‘ to happen, as he had made on the day of *Wilson*
‘ the smuggler’s execution? Has any thing come
‘ out in evidence, Sir, which can make us suspect
‘ that the Lord Provost had any reason to believe
‘ that the riot would be upon the *Tuesday*? And
‘ has it not appeared, that it was not believed by
‘ any man of sense in that city, that the rebels
‘ would ever have attempted, even upon the *Wed-*
‘ *nesday*, to execute a design that was judged so
‘ impracticable? Does it appear, Sir, that during
‘ that barbarous riot, the Lord Provost refused to
‘ go into any one measure that was proposed for the
‘ common safety, or to venture as far as the most
‘ zealous, and the most interested there? In my
‘ opinion, Sir, tho’ he had not exposed the dignity
‘ of

‘ of a magistrate to the insults of an enraged mob,
‘ by venturing so far in person as he did, he had
‘ been very excusable. During the riot, Sir, we
‘ find him not only very active in his own person,
‘ but using all the means that could be suggested,
‘ either by prudence or zeal, to discover the au-
‘ thors of it, by sending out proper persons, who
‘ were to mingle with the rioters, and to bring him
‘ an account if they knew any of their faces ; but
‘ it does not appear, Sir, that any one citizen of
‘ *Edinburgh*, not so much as any one inhabitant of
‘ that city was concerned in the riot ; for if they
‘ had, they could not have been concealed, since all
‘ the evidences agree, that it was very easy, by
‘ means of the lights and torches which the rioters
‘ had along with them, to discover any face there.
‘ One evidence, Sir, told us, he ventured so far, by
‘ order of the Lord Provost, as to go to the very
‘ place where the murder was committed, where
‘ he heard and saw every thing that passed among
‘ the rioters till it was over ; yet notwithstanding
‘ the strictest observations he could make, he could
‘ not say that there was any one face there he had
‘ ever seen before. This evidence, Sir, had lived
‘ in the city of *Edinburgh* from his childhood, and
‘ has been for about these twelve years past in a post
‘ (I think he is one of the city officers) which gave
‘ him more than ordinary opportunities of being
‘ acquainted with the persons of the inhabitants, so
‘ that it is next to impossible, had any of them been
‘ there, but they must have been discovered.

‘ In short, Sir, to suppose that the Lord Provost
‘ could have done more than he actually did in or-
‘ der to suppress the riot, is to suppose that he ought
‘ to be possessed not only of all the qualifications of
‘ a civil magistrate, but of all the abilities of an ex-
‘ perience general. Two gentlemen, Sir, whose
‘ zeal and attachment for his Majesty’s person and
‘ government none can question, who were wit-
‘ nesses

‘ nesses to the Provost’s conduct after the riot was
‘ over, have given it as their opinion, that it was
‘ impossible for him or any man to have done more
‘ than he did for the discovering and bringing the
‘ rioters to justice.

‘ But, Sir, tho’ some slips had been committed
‘ by the Lord Provost at this dangerous juncture,
‘ are we to make no allowances for the impressions
‘ that such a scene of tumult and fury might rea-
‘ sonably be supposed to make upon the spirit of a
‘ man, who perhaps never saw the face of danger
‘ before? Every man is obliged to be honest, Sir,
‘ but every man is not obliged to be brave: And
‘ I think no gentleman, who has had occasion to
‘ speak on the present affair, has advanced, that the
‘ Lord Provost either connived at the rioters, or
‘ was inactive in his endeavours to suppress the riot;
‘ so that if we punish him for what passed at that
‘ time, we shall not punish him for want of honesty,
‘ but for want of courage. There is another point,
‘ Sir, which claims all our attention, because our
‘ present proceeding may be a future precedent.
‘ There are many instances, Sir, in our history,
‘ of riots and tumults, which have been attended
‘ with very dangerous consequences, breaking out
‘ in cities; and altho’ the rioters have been exem-
‘ plarily punished, yet we have no instance of any
‘ of the magistrates of the cities where those tumults
‘ broke out, suffering in their natural capacities for
‘ what they had done in their civil. If a man acts
‘ with honest intentions, and according to the best
‘ of his knowledge, it is all that can be expected,
‘ because no man can do more.

‘ But there is one argument, Sir, advanced
‘ against the Lord Provost, (and, indeed, it is an
‘ argument that I am surprized to hear any gen-
‘ tleman make use of, either in this or any other
‘ case) which is, That he did not use the proper
‘ measures for suppressing the riot. Gentlemen can

only mean by this, That he did not use the measures which afterwards (that is, after the riot was over) were found to be proper. If this argument, Sir, held good, there is no politician or general, under whom any design has miscarried, but must suffer, tho' he behaves with all the conduct and courage which are possible to be exerted; for no man, Sir, was ever yet able to lay down his measures so well, but that if they miscarried, it was always found afterwards, that some measures which would have been proper, were omitted, and that the miscarriage of the whole was to be attributed to that omission. Would our armies, Sir, have been cut off at *Bribuega*, and *Almansa*, or surprized at *Denain*; or would our fleets have been baffled at *Toulon*, had they who were at the head of our armies and fleets taken those measures, which the event showed would have been proper measures? Had the gentleman, Sir, who commanded the forces which were at that time about *Edinburgh*, reflected, that every man was obliged as a subject of the King, whether he was a soldier or not, to assist the civil magistrate in the suppression of tumults, and consequently that he ought to have marched into the city of *Edinburgh* on the first notice of the riot, and to have made no scruple of breaking down any gate, or breaking through any obstacle that stood in his way, he would have taken the measures which, it is now found, would have been proper measures, and he would have acted a part which the laws of our constitution both authorize and require. But I am far, Sir, from throwing out any reflexion upon that gentleman for being ignorant in this point, or for not having presence of mind enough to do what he thought was inconsistent with his orders from his superior officer: And I wish, with all my heart, that That honourable gentleman had been

‘ been upon the spot at that time, for if he had, I
‘ am persuaded the riot had been prevented.

‘ When the gentleman, Sir, who commanded
‘ the forces in the castle, was examined, he owned
‘ he knew there was a riot in the city during the
‘ time it was committed. He likewise owned that
‘ he had his forces drawn out, that they might be
‘ in readiness to march to the assistance of the Lord
‘ Provost whenever he should be required. Being
‘ asked why he did not march down his men to the
‘ city without being required ; he owned that such
‘ a measure did not occur to him ; and it was the
‘ best and most natural answer he could give. Here,
‘ Sir, is a measure, which it is now found would
‘ have been a proper measure, omitted ; yet how
‘ unreasonable would it be to blame that gentleman
‘ for his conduct !

‘ I shall conclude, Sir, with a remark or two up-
‘ on the imprudence of our passing the present bill
‘ into a law. We may easily suppose from the
‘ action now under our consideration, that there is a
‘ spirit of dissatisfaction among some of the subjects
‘ of that part of the united kingdom : And it can
‘ never be thought that our passing a bill of this na-
‘ ture will serve to allay this spirit. I am willing,
‘ Sir, to entertain as good an opinion, as any gen-
‘ tleman, of the loyalty of the *Scots* ; but should
‘ they say, *Let us die with the Philistines*, who knows
‘ but they may have strength enough remaining to
‘ shake the pillars of this house, even tho’ they
‘ should bury themselves under the ruins of this
‘ constitution ? Governors, Sir, may think to de-
‘ prive a people of the means of rebellion, they
‘ make take the wisest and the justest precautions ;
‘ but a people who think themselves oppressed, will
‘ always find pretensions to rebel, and despair will
‘ furnish them with arms.

Mr. Fox's
speech.

‘ Sir, the arguments both for and against the present bill, have been set in so clear a light, and so much of your time has been already taken up in this affair, that I shall beg your indulgence but for a very little time, to make some remarks upon what has been advanced by the honourable person who spoke last, and the other honourable and learned gentlemen who spoke against the bill.

‘ I believe every gentleman in this house has an equal abhorrence both to the principles and the persons of those that occasioned the inhuman murder which is the subject of the present debate. It is not only every gentleman's duty, but his interest, to exert himself both in bringing to justice the persons who were actually and immediately concerned in the murder, and likewise those who by their negligence or cowardice may be well said to have promoted it. But it seems the difficulty lies in knowing whether the Lord Provost and citizens of *Edinburgh* were either negligent or cowardly upon that occasion. It has likewise been much insisted on by the honourable gentlemen who spoke against the bill, that the persons who committed this detestable murder, were neither citizens nor inhabitants of that city, but all living in the adjacent country ; which is saying in other words, that when a drum was beat by a boy in the streets of *Edinburgh*, these streets were immediately filled with men who lived at four or five miles distance. I own, Sir, it surprizes me when I reflect how gentlemen insist upon its being possible, that people living at a distance from one another in the country, could find means to lay down so regular, so artful a plan of murder and rebellion, and afterwards to execute it in so cool and so determined a manner, in the heart of a populous well-affected city, and that too in the view of all the magistrates and citizens of the same city : I say, Sir, these appear such absurdities to me, that I am surprized gentlemen

‘ don't

‘ don’t at once see their inconsistency. All the evi-
‘ dences, Sir, have told, that the streets were crowd-
‘ ed by great numbers of people. Now, Sir, these
‘ people must have been either the actual authors of
‘ the murder, or bare spectators : if they were the
‘ actual authors of the murder, and yet were neither
‘ citizens nor inhabitants of the city, I should be
‘ glad to know how such a multitude (one evidence
‘ I think said they might be about four or five thou-
‘ sand) could assemble in one day within a city of
‘ the extent of *Edinburgh*, without being perceived
‘ by any of the inhabitants ; and if they were per-
‘ ceived, why the magistrates were not informed of
‘ so unusual, and, as I take it, of so dangerous a con-
‘ course, and why the reasons of it were not inquired
‘ into. If we shall suppose, Sir, what I believe was
‘ indeed the case, that very few were actually en-
‘ gaged in the murder, can any gentleman pretend
‘ to account why that handful of rebellious conspira-
‘ tors were not immediately crushed by those multi-
‘ tudes of loyal inhabitants who were, it seems, but
‘ bare spectators. Their own evidence, *Walker*, Sir,
‘ has told us, that tho’ he was near the scene of bar-
‘ barity when *Porteous* was murdered, yet he could
‘ not discern above forty or fifty who were actually
‘ concerned in the murder ; at the same time he
‘ owned, that there were upwards of fourteen or fif-
‘ teen hundred upon the spot. Now, Sir, it can
‘ never be supposed, that if these numbers who
‘ tamely looked on, and were certainly citizens or
‘ inhabitants of *Edinburgh*, had been the loyal well-
‘ affected persons some gentlemen have represented
‘ them, that they would tamely have suffered so in-
‘ human a barbarity to have been committed : Nay,
‘ Sir, was not their behaviour a tacit consent to the
‘ tragedy that was then acting ?

‘ It was said, Sir, during the time that this de-
‘ bate has been depending, that it would be unjust,
‘ granting some of the inhabitants of *Edinburgh* had
‘ been

‘ been actually concerned in the murder, that the
‘ innocent should be involved in the punishment of
‘ the guilty, and that the community should suffer
‘ for the rough and rebellious actions of a few. But
‘ by this way of arguing, Sir, no censure can be in-
‘ flicted upon any community, which I think has
‘ never yet been asserted. We had an instance, Sir,
‘ in the year 1725, when the town of *Glasgow*, for
‘ a misdemeanor, which was not attended with near
‘ so many aggravating circumstances as that now
‘ under our consideration, was severely fined, and
‘ that fine raised by an equal contribution of the
‘ inhabitants. Let us now suppose, Sir, that a citi-
‘ zen of *Edinburgh* and another of *Glasgow* were to
‘ meet together after this bill has passed into a law,
‘ and that both of them were so far from being ac-
‘ cessary to either of the riots, that they were at a
‘ good distance from the cities when they were per-
‘ petrated : The citizen of *Edinburgh* lays open to
‘ his friend the injustice done to the community, by
‘ stripping it of a few of its privileges, because the
‘ Parliament found that a riot had been committed
‘ within that city by private persons : May not the
‘ other complain with more justice, that the com-
‘ munity of *Glasgow* suffered more by the prosecu-
‘ tion carried on against it, and having its magistrates
‘ imprisoned : Besides, he might add, I who was
‘ absent from the town during the riot, and would
‘ have been both forward and zealous, had I been
‘ upon the spot, to have suppressed it, was obliged
‘ to pay as much, and perhaps more, towards the
‘ reparation of the damages done by the rioters, than
‘ the most guilty there. Would not this plea have
‘ more weight in it than all the grievances which
‘ the citizen of *Edinburgh* could complain of ? Yet
‘ gentlemen thought it both wise and just at that
‘ time, to proceed in this manner against *Glasgow* ;
‘ and I believe the tranquillity which that country
‘ has

‘ has since enjoyed, is in a great measure owing to
‘ the seasonable severity of this house at that junc-
‘ ture. When the tides of popular fury, Sir, begin
‘ to beat against the servants of the crown, it has
‘ been so in all ages, that if they were not timely
‘ checked, they soon grew too strong for any bar-
‘ rier, either of law or duty, to oppose them, till in
‘ the end they bore down sovereign authority itself.
‘ The pillars of this house, Sir, were never shaken,
‘ nor was this constitution ever ruined, but by the
‘ cowardice and treachery of those who ought to
‘ have been the protectors and guardians of both.
‘ While we were united among ourselves, we had
‘ nothing to fear from what was acting or plotting
‘ abroad: But if we shall now betray irresolution
‘ and weakness, if we should neglect to inflict a
‘ wholesome severity while power is in our hands,
‘ and justice on our side, have we not every thing
‘ to fear from those who will undoubtedly assume
‘ courage from our timidity, and grow insolent up-
‘ on our lenity. As to the fears gentlemen have
‘ been pleased to express, with respect to the resent-
‘ ment of the *Scots*, if we pass the present bill into a
‘ law, I am under no apprehensions in that point:
‘ I believe that nation smarted sufficiently for their
‘ rebellion in the year 1715, and will not be very
‘ forward to renew the same behaviour, lest they
‘ meet with the same fate. But, Sir, if we have just
‘ reason to apprehend any thing from the *Scots* at
‘ this time and on this account, it is a very good rea-
‘ son to me for agreeing to the present bill, because
‘ they will never rebel upon this account, unless they
‘ are resolved to rebel at any rate. I should much
‘ rather wish, that it were at this time, and upon
‘ this account, than afterwards, when perhaps the
‘ spirit of disloyalty may spread too much, and grow
‘ too strong to be so easily checked.’

Lord

Lord Glen-
orchy's
speech.

Lord Glenorchy spoke next, in substance as follows.

‘ Sir, as I have given a very close attendance
‘ upon the house, during the time that this bill has
‘ been depending before us, and have endeavoured,
‘ as far as I could, to divest myself of all prejudice
‘ and partiality, I hope I may be allowed to take
‘ up a little of your time with a few remarks, with
‘ respect to the evidence upon which the present bill
‘ is founded. The honourable and learned gentle-
‘ men who spoke first for the bill, were so candid
‘ as to acquit the Lord Provost and town council of
‘ *Edinburgh* of any malice towards the unfortunate
‘ person, whose barbarous murder gave rise to the
‘ bill : Since, as my learned friend observed, the
‘ Lord Provost might have tried, condemned and
‘ hanged him by his own authority, and within his
‘ own jurisdiction. Now, Sir, none of the honour-
‘ able and learned gentlemen who have spoken in
‘ favour of the present bill, have given us any reasons
‘ why they suspect, that, after so fair and so favour-
‘ able a conduct, with respect to that unfortunate
‘ person, the Lord Provost should, all of a sudden,
‘ become so indolent, after he was informed of the
‘ design to murder him, as to take no measures to
‘ prevent it, or, while it was acting, to use no efforts
‘ to quell the rioters. As I think no reason can be
‘ given, I believe gentlemen will be puzzled to state
‘ his misdemeanor (if he was guilty of any, as I am
‘ far from thinking he was) in such a light, as to
‘ make him guilty of knowingly and deliberately
‘ favouring the murderers of a man, to whom he
‘ had but a little before shewed so much (I may say
‘ from the circumstances of *Porteous*’s guilt) partial
‘ favour. All that gentlemen can pretend to charge
‘ the Lord Provost with, is the want of foresight
‘ and courage, both which qualifications are, I own,
‘ indispen-

‘ indispenfable to a magiftrate ; but I believe there
‘ is no instance where any magiftrate was ever pu-
‘ nifhed for not exerting talents with which nature
‘ never endowed him. If from the circumftances
‘ of the Lord Provof’s behaviour, we find that he
‘ acted according to the beft of his knowledge and
‘ abilities, I am of opinion, that tho’ that know-
‘ ledge and thefe abilities were not fo extenfive, as
‘ were required in a magiftrate who bore fo diftin-
‘ guifhed a poft, yet we are not to blame him, but
‘ his conftituents, among whom it appears he has
‘ always lived, for chufing him into an office no
‘ ways proportionate to his abilities. As to what the
‘ honourable gentleman was pleafed to mention, with
‘ refpect to the behaviour of the citizens of *Edin-*
‘ *burgh* during the time of that barbarous riot ; I
‘ think it was fufficiently answered by an act of Par-
‘ liament produced at the bar of this houfe, made
‘ before the union of the two crowns, and ftill in
‘ force in that kingdom, by which it is made death
‘ for any number of the inhabitants of the city to
‘ affift in appeafing any riots, without the exprefs
‘ orders of the Lord Provof and magiftrates. If
‘ it fhould be asked, Why was not this order given?
‘ The anfwer is eafy, Becaufe the Lord Provof and
‘ magiftrates were deprived by the precautions the
‘ rioters had taken, and the fury they exercifed, of
‘ every poffible means both of iffuing fuch an order,
‘ or of having it obeyed if it had been iffued. You
‘ have heard from the evidence, Sir, that the city
‘ officers are they that wait upon the Lord Provof
‘ and magiftrates perfons, and are the ordinary mef-
‘ fengers of all the orders difpatched by them ; and
‘ that they were fo feverely pelted by the mob, that
‘ they were obliged to throw off their livery coats,
‘ and to fhelter themfelves in their own houfes ; one,
‘ it is true, had the good fortune to efcape their fu-
‘ ry, and wait upon his mafters during the riot, but
‘ was at laft obliged to put off his livery coat, other-
‘ wife

‘ wise he must have been knocked on the head by
‘ the rioters. This, Sir, with many other circum-
‘ stances, has been so fully insisted upon already,
‘ by the honourable and learned gentlemen who
‘ have spoke in this debate, that I shall not pretend
‘ to add any thing to what they have said, since it
‘ so well proves that it was impossible for the Lord
‘ Provost to have raised the militia of the city ; and
‘ if they had of themselves, without his order, assist-
‘ ed in suppressing the riot, we see that every man
‘ of them had been liable to death. The honoura-
‘ ble gentleman who spoke last, was pleased to ex-
‘ press himself in such a manner, as shewed that he
‘ was under no apprehension from any resentment
‘ of the *Scots*, in consequence of our passing the pre-
‘ sent bill into a law. I have as good an opinion
‘ of our strength, when we are united, as that ho-
‘ nourable gentleman, or any gentleman in this
‘ house ; but then gentlemen cannot be ignorant,
‘ that this is far from being our case at present ; that
‘ tho’ perhaps any one faction cannot harm us, yet
‘ we have reason to apprehend, that there are many
‘ who are disaffected to our present happy establish-
‘ ment upon different accounts, who will greedily
‘ embrace any opportunity, and join with any
‘ party, tho’ of principles and interests differing
‘ widely in other respects, provided they have one
‘ favourite point in view, which is that of distressing
‘ the government. Besides, Sir, we ought to con-
‘ sider that we have a powerful neighbour, who, no
‘ doubt, has a watchful and jealous eye upon all our
‘ resolutions, and would not miss any opportunity
‘ of improving every circumstance to her own ad-
‘ vantage, should we lay ourselves open to any in-
‘ conveniences of that nature. I should be sorry,
‘ Sir, if from what I have said, any gentleman
‘ thought that I intended to favour faction, or to
‘ magnify her forces. No, Sir, were I not firmly
‘ persuaded that we ought, both in good policy
‘ and

‘ and common justice, to throw out the present
‘ bill, I should be as forward for vigorous mea-
‘ sures on this occasion as any gentleman in this
‘ house ; and I am sorry that I am, upon these con-
‘ siderations, obliged so far to differ from the ho-
‘ nourable and learned gentlemen who have spoke
‘ for the bill, as to give my vote against its being
‘ committed.’

James Oglethorpe Esq; spoke next, to the follow-
ing effect.

‘ Sir, I never had the happiness to be married, Mr. Ogle-
thorpe's
speech.
‘ but I have been told, and I believe, that marri-
‘ age is a very happy state. I have often, Sir, heard
‘ the union betwixt us and our neighbouring nation
‘ compared to marriage, and I think not impro-
‘ perly, for the happiness of both parties must con-
‘ sist in a mutual harmony and good understanding,
‘ which can never be, if the stronger shall pretend
‘ to oppress the weaker ; and the *Scots*, Sir, when
‘ they entered into this state with us, put so abso-
‘ lute a confidence in our honour, that it would be
‘ both ungenerous and unjust for us to give them the
‘ least cause to repent their bargain. I shall readily
‘ own, that a most horrid riot and murder happen-
‘ ed within the city of *Edinburgh*, and that there
‘ were several obvious measures neglected which
‘ might have prevented it ; but I think the punish-
‘ ment intended by the present bill is by far too se-
‘ vere, both with respect to the Lord Provost, and
‘ the city itself.

‘ As to the Lord Provost, Sir, I am of opinion
‘ he did all that could be expected from a man of
‘ his age or abilities, and cannot see any reason why
‘ he should be singled out for punishment. And,
‘ Sir, as gentlemen have in this affair been pleased
‘ to quote *Puffendorf* and *Grotius*, I shall beg leave
‘ to quote the words of an author, whom I am sure
‘ most

‘ most gentlemen in this house have read twice for
 ‘ once that they have read either of those two au-
 ‘ thors: The words are in a book which I have in
 ‘ my pocket, and which is called HUDIBRAS.

*Tho’ nice and dark the point appear,
 (Quoth Ralph) it may bold up and clear.
 That sinners may supply the place
 Of suffering saints, is a plain case;
 Justice gives sentence many times
 On one man for another’s crimes.*

Hud. P. 2. Cant. 2.

‘ These lines, Sir, introduce an account of a bed-
 ‘ rid weaver in *New England*, who was hanged for
 ‘ the murder of an *Indian*, committed by a preach-
 ‘ ing Cobler: The *Indians*, it seems, insisted warm-
 ‘ ly that the murderer should be hanged; and as
 ‘ they did not know his person, the saints thought it
 ‘ much better to hang up the bid-rid weaver than
 ‘ the offender, who was a useful man among them,
 ‘ by acting in the double capacity of preaching and
 ‘ cobling. I leave gentlemen to apply this bed-rid
 ‘ weaver’s case to the Lord Provost’s: I shall only
 ‘ observe, that from what appears by the evidence
 ‘ given in at the bar of this house, there were others
 ‘ equally, if not more, guilty.

‘ As for the censure inflicted upon the city of
 ‘ *Edinburgh* by the present bill, I think there is
 ‘ something in it that is contrary to the in-
 ‘ tention of the bill. The intention of the bill, Sir,
 ‘ as I take it, is to punish the citizens for not sup-
 ‘ pressing an inhuman riot, and preventing a bar-
 ‘ barous murder; but the censure to be inflicted up-
 ‘ on them for this, by taking away their guard,
 ‘ plainly puts it out of their power to suppress any
 ‘ such riot for the future. Here is a city, and here
 ‘ are magistrates, liable to be insulted by an outra-
 ‘ geous

‘ geous mob, yet we tye up their hands from quell-
‘ ing that mob, and we punish them because it was
‘ not quelled. In my opinion, we cannot do a
‘ greater piece of service to the authors of *Porteous’s*
‘ murder, than to consent that the present bill should
‘ be passed into a law ; for we by it expose both the
‘ peace of the city, the authority of the magistrates,
‘ and the interest of the country, to all their future
‘ insults. In short, Sir, I think the present bill is
‘ neither calculated to punish those who were negli-
‘ gent in suppressing that late riot, nor for prevent-
‘ ing the like in time to come ; and I could wish
‘ that gentlemen would fall upon some other means
‘ for answering both these ends.’

‘ Sir, I hope my being of the country where so Mr. Erskine
‘ barbarous and inhuman a murder as that under our his speech.
‘ consideration was committed, will not be a mo-
‘ tive for any gentleman to suspect, that I am to say
‘ the least word that can be even wrested to favour
‘ the bloody rioters who were the actors : No, Sir,
‘ every gentleman of that country, who has the ho-
‘ nour to sit in this house, has much more reason
‘ than others for giving his vote for the severest
‘ proceedings both against the authors and favour-
‘ ers of the murder ; because, where the flames of
‘ rebellion mount so high, and blaze so fierce as
‘ they did at that unhappy juncture, it is more par-
‘ ticularly both the duty and interest of every honest
‘ man, and every loyal subject, whose properties
‘ lie more immediately in that country, to do his
‘ best to extinguish them, to bring the incendiaries
‘ to justice, and to concur with every measure that
‘ may be effectual for either of these purposes. I
‘ say, Sir, that may be effectual ; for, were I not
‘ persuaded that the methods proposed by this bill,
‘ are both ineffectual and unjust, I should be the
‘ last person in this house to vote against the present
‘ motion.

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‘ motion. All the gentlemen, Sir, who have spoken
‘ both for and against this motion, have agreed as
‘ to the heinousness of the fact, and the necessity
‘ the Legislature is under to punish both the authors
‘ and favourers of it. There is a bill in dependence,
‘ Sir, before this house, for punishing the former;
‘ and I believe, it will meet with very little, if any,
‘ opposition: But what gentlemen seem to be di-
‘ vided upon in the debate upon this bill is, Who
‘ these favourers were? So much, Sir, has been
‘ said upon this head already, that I shall not re-
‘ sume any of the particulars; I must only beg leave
‘ to observe one thing which has been overlooked in
‘ the course of the present debate; and that, Sir,
‘ is with respect to the nature of one part of the
‘ punishment inflicted by the present bill upon the
‘ citizens of *Edinburgh*; what I mean is, the demo-
‘ lishing of the city gate. If this gate, Sir, were
‘ the property of the persons, who by the present
‘ bill are supposed to be guilty; and if these per-
‘ sons were proved to be guilty, I shall not deny
‘ but the punishment would be adequate to the
‘ offence: But the case, Sir, is otherwise; the gate
‘ belongs to the corporation; and corporations, in
‘ the sense both of our law and the civil law, are
‘ in some measure looked upon as minors, whose
‘ estates the magistracy of the city, and the electors
‘ of that magistracy, which are the town-council,
‘ and the constituents of that town-council, which
‘ are the merchants and traders, are no other than
‘ the trustees and the guardians. Hence, Sir, it is
‘ plain, that if we shall think fit to punish the cor-
‘ poration for a misdemeanor committed by the ma-
‘ gistrates and traders, we shall do the same thing
‘ as if a Judge, for a fault committed by the guar-
‘ dian of a minor, should give sentence, that the
‘ damage sustained by the misdemeanor should be
‘ made up out of his pupil’s estate. If gentlemen
‘ view the present bill in this light, and at the
‘ same

‘ same time reflect, that besides the inhuman insult
‘ committed upon Majesty and Government by the
‘ barbarous riot we are now considering, the corpo-
‘ ration itself was a very great sufferer ; and had it
‘ not been for the measures taken by the magi-
‘ strates, in all appearance, would have been still a
‘ greater by that riot : I say, Sir, if gentlemen
‘ would be pleased to consider this, I am persuaded
‘ they would be very cautious in giving their votes
‘ for inflicting the censure proposed by the present
‘ bill.

‘ An honourable gentleman, Sir, who spoke for
‘ the motion, made an observation, which, in ge-
‘ neral, I believe, is very just ; that it has been
‘ many times seen, that malefactors have been
‘ screened from the severity of the laws, but never
‘ deprived of the mercy of the Legislature, by the
‘ interposition of the populace. It would be, per-
‘ haps, thought needless to remark, that when the
‘ populace interposes in favour of a malefactor, it
‘ is seldom from a principle either of humanity or
‘ justice towards the malefactor ; but from a spirit
‘ of opposition to, and disaffection against the go-
‘ vernors ; or, perhaps, from a fellow-feeling of the
‘ malefactor’s circumstances : But the use, Sir, I
‘ suppose the honourable gentleman intended to
‘ make of this observation, was to inspire an hor-
‘ ror of the spirit in which the rioters acted when
‘ *Porteous* was murdered. I must however beg leave
‘ to observe, that there have been exceptions to the
‘ honourable gentleman’s observation in the pro-
‘ ceedings of the populace of this country. If I
‘ am not misinformed, Sir, there was an instance,
‘ not long ago, of a person being murdered by the
‘ populace of *Westminster*, while he was upon the
‘ pillory, or at least a very little time after he was
‘ taken from it. A person, Sir, while upon a pil-
‘ lory, is as much under the protection of the laws,

‘ as a person that is in prison, and has received the
 ‘ benefit of the royal mercy : And tho’ the murder
 ‘ of the former may, perhaps, seem not to express
 ‘ so great a contempt of Majesty as the murder of
 ‘ the latter, yet the magistrates are by their offices
 ‘ bound to act as vigorously to prevent the one as
 ‘ the other : And the criminals, if apprehended and
 ‘ convicted, are equally punishable in the eye of the
 ‘ law. If I am misinformed, Sir, as to this instance,
 ‘ I hope gentlemen will do me the favour to put
 ‘ me right : But if the fact be as I have stated it, I
 ‘ think it is a proof, that *Edinburgh* is not the only
 ‘ city whose populace is inhuman and barbarous.
 ‘ We never heard, Sir, of any measures taken by
 ‘ the Legislature for punishing the high-constable,
 ‘ justices of the peace, or whoever were the magi-
 ‘ strates of *Westminster*, for not preventing the riot
 ‘ and murder ; nor did we ever hear of those magi-
 ‘ strates interposing in person with the immediate
 ‘ hazard of their lives, to prevent them, as the
 ‘ Provost and magistrates of *Edinburgh* did in the
 ‘ case of *Porteous* : Yet had a bill for that effect
 ‘ been brought in before this house, would not
 ‘ gentlemen have looked upon it as both ridiculous
 ‘ and unjust ? I am sorry that I have been obliged
 ‘ to take up so much of your time with what I
 ‘ have said : But I thought my duty to my Prince
 ‘ and country obliged me to suggest whatever I
 ‘ thought would contribute to have a bill thrown
 ‘ out, which, if passed, can never promote, but may
 ‘ much weaken the interest of both.’

Sir William
 Yonge’s
 speech.

‘ Sir, it is surprizing that gentlemen should ex-
 ‘ press such a detestation of the riot now under our
 ‘ consideration, and yet should so zealously oppose
 ‘ the measures laid down by the present bill for pu-
 ‘ nishing those, who by their negligence and re-
 ‘ missness contributed to promote it. My honour-
 ‘ able and learned friends, who moved that this bill
 ‘ should

‘ should be committed, were pleased to allow, that
‘ the Lord Provost and the magistrates of *Edin-*
‘ *burgh* shewed no personal rancour to *Porteous* in
‘ their proceedings against him before his condem-
‘ nation : But this is a concession I should have been
‘ far from making ; because I think it appears by
‘ his trial, that he was in some measure under a ne-
‘ cessity of acting as he did on the day of *Wilson’s*
‘ execution. He had positive orders from his supe-
‘ rior officer, who was the Lord Provost, that in
‘ case of an attempt to rescue the prisoner, he should
‘ do military execution ; and powder and shot were
‘ delivered to him and his men for that effect. An
‘ attempt of that kind, Sir, was made : The men
‘ under *Porteous’s* command, and for whose safety
‘ he was to be answerable, were insulted, and at-
‘ tacked, to the immediate danger of their lives.
‘ What could the poor man do in such a situation as
‘ he was then in, but to make the best defence, and
‘ to bring off his men in the best manner he could ?
‘ Yet after all, it is far from being clear to me, that
‘ the killing of so many persons as fell that day
‘ was owing to *Porteous* ; because it does not evi-
‘ dently appear by his trial, that he either fired
‘ among the mob himself, or that he gave such or-
‘ ders to his men. These circumstances, Sir, make
‘ me think that it was with a very bad grace, that
‘ the Lord Provost and Town-council became his
‘ prosecutors, and that they threw him in prison,
‘ depriving him of his pay, and leaving him only
‘ the poor subsistence of half a guinea a week. An
‘ honourable and learned gentleman, who was pre-
‘ sent on the spot, and who has spoken against the
‘ motion, has told us, that while *Porteous* was upon
‘ his trial, the rage of the mob was so great against
‘ him, that he was in danger of being torn in
‘ pieces, and was obliged to be carried betwixt his
‘ prison and the place where his judges were, under

‘ a very strong guard. Can we suppose, Sir, that
‘ this mob came from the country likewise, and
‘ that it was not the very mob that afterwards so
‘ inhumanly murdered him? Ought not this, Sir,
‘ to have instructed the Lord Provost and magi-
‘ strates to have removed him to a place of more
‘ safety than their common prison-house? Yet, Sir,
‘ in the whole course of the evidence, we have not
‘ heard of one step or motion made for that ob-
‘ vious measure. I shall not run over any more of
‘ the particulars of that tragical scene; but I can-
‘ not help observing, that the gentlemen who put
‘ questions in favour of the Lord Provost and city
‘ of *Edinburgh* to the evidences, had great advan-
‘ tages from their being perfectly well acquainted
‘ with every circumstance that could put matters in
‘ the best light for the Lord Provost and the city:
‘ And that several of the evidences, tho’ not com-
‘ prehended in the present bill, have such a relation
‘ to, and such a dependence upon the magistrates,
‘ and had themselves such a share in what was acted
‘ on the Provost’s part that night, as makes it highly
‘ improbable, that they would of their own accord
‘ discover any thing which they imagined might
‘ tend to the prejudice of either; not to mention,
‘ that some of them have grossly prevaricated in fa-
‘ vour of them both. Notwithstanding, Sir, all this,
‘ it is undeniable, that a most barbarous murder,
‘ and an open insult upon government was com-
‘ mitted within that city, and that the chief magi-
‘ strate of that city had previous information given
‘ him, yet took not even the most obvious mea-
‘ sures for preventing it: And it is likewise evident,
‘ that not one of the rioters hath yet been brought
‘ to justice. All these considerations, Sir, sway as
‘ much with me, as if the most minute circum-
‘ stances of the facts laid down in the preamble of
‘ the bill had been actually proved: Tho’ I think
‘ there is enough proved to satisfy my own consci-
‘ ence,

‘ence, that I act according to justice, and consistently with the character of one who has the honour to sit in this house, if I give my vote for the commitment of this bill.’

‘Sir, ever since this bill was brought before us, Lord Polwarth’s speech.
 ‘I have endeavoured, by close attendance in the house, to make myself as much master of what could be said for or against it, as I was able; and if any gentleman will shew where one argument in the charge against the Lord Provost and city of *Edinburgh* has been proved*, I will this instant give my vote for the commitment of the bill: I say it again, Sir, if any gentleman will shew one article that has been proved against the Lord Provost and the city of *Edinburgh*, I will give my vote for the commitment of this bill. The honourable and learned gentleman who seconded the motion, in his observations upon the evidence, was pleased to advance, that during the time of the riot a person came into the tavern where the Lord Provost and magistrates were, and affirmed that he knew one of the rioters, offering at the same time to name him, but that he was forbidden by some of the company, who desired him to wait till a more proper opportunity. I think there was not one article advanced by any of the witnesses that escaped my notice; and I dare venture to affirm, that not one of them gave any such † evidence. Nay, I appeal to the minutes of the examinations, and will sit down ‡ till the clerk shall read them. I shall make a remark or two upon one part of the speech that was delivered by the honourable gentleman who spoke last; the rest of it I think requires none. The

* Here he was interrupted by some members.

† Here he was again interrupted by some members, who cry’d, *No, no.*

‡ Here he sat down.

‘ honourable gentleman seems to be satisfied in ge-
‘ neral with the truth of what is laid down in the
‘ preamble of the bill ; but has not been pleased to
‘ shew how one particular circumstance has been
‘ proved. It has always been my opinion, Sir,
‘ that as we are the Judges of this affair, we ought
‘ to act upon the same grounds, and be determined
‘ by the same rules of equity, as other Judges are.
‘ As we have gone through a long course of evi-
‘ dence, we can have no other foundation to build
‘ our judgment upon, than the facts that have ap-
‘ peared from that evidence ; else why have we
‘ spent so much pains and time upon it, at such an
‘ advanced season of the year ? And we have heard
‘ evidences, Sir, who have seemed to be very much
‘ disposed to have aggravated every circumstance of
‘ misconduct or negligence, could they affix either
‘ of them upon the Provost or magistrates of *Edin-*
‘ *burgh*. Something indeed was advanced that looked
‘ that way, and has been much insisted upon by the
‘ gentlemen who have spoken for the motion, tho’
‘ the account given by gentlemen of undoubted
‘ honour and probity of the personal character of
‘ these witnesses, and the many inconsistencies of
‘ their evidence, make it surprizing to me, that
‘ they ever should be mentioned but with indigna-
‘ tion. I am persuaded, Sir, that if gentlemen would
‘ lay their hands upon their hearts, and ask of them-
‘ selves, whether they would have voted in the man-
‘ ner they have done, had the case of the city of
‘ *Edinburgh* been that of the cities of *Bristol*, *York*,
‘ or any of the large cities of *England* ; I say, Sir,
‘ I am persuaded gentlemen would have required,
‘ that every tittle of the charge against them should
‘ have been fully and undeniably proved. It is true,
‘ Sir, that none of the authors of this detestable
‘ murder have ever been apprehended : But, Sir, is
‘ it necessary, that in order to make a decent and
‘ a plentiful execution, we should punish those who
‘ seem

‘ seem to have no other crime but their endeavour-
‘ ing to suppress the crimes of others ; and must
‘ the innocent be punished, because the guilty have
‘ gone unpunished? As this seems to me, Sir, to
‘ be the case with respect to our proceeding on the
‘ present bill, I heartily give my vote against the
‘ motion.’

‘ Sir, as I have some concern in the civil magi-
‘ stracy of a city, and probably may have more, I
‘ do not think it sufficient for me barely to give my
‘ vote against the present motion, without taking
‘ notice, that we are now upon a point that may
‘ some time or other equally affect every civil ma-
‘ gistrate, and every community in the kingdom.
‘ If the Lord Provost of *Edinburgh* was guilty of
‘ any fault during the time of this unhappy riot,
‘ it was of too much rashness, and too much zeal,
‘ in exposing his person and character in order to
‘ suppress it. For my share, Sir, I cannot see
‘ what view the Lord Provost could have, if he
‘ did not act with zeal and in good earnest, to ex-
‘ pose both his own life, and that of his friends, in
‘ his repeated endeavours to suppress the riot : And
‘ had I been in his case, Sir, I doubt very much
‘ if I had gone so far as he did. I know the be-
‘ haviour of the gentleman who was Lord Mayor
‘ of *London*, when a mob happened upon the anni-
‘ versary of the memorable excise bill’s being set
‘ aside, has been mentioned upon this occasion :
‘ But all the world condemned that gentleman for
‘ exposing his person so much as he did to the fury
‘ of the populace, and there was not a friend he
‘ had but blamed him for his rashness. But setting
‘ aside all these considerations, Sir, I think that our
‘ proceeding by bills of this nature has so danger-
‘ ous a tendency, that tho’ I did think the subjects
‘ of the bill guilty, I should never give my vote
‘ for proceeding against them in this manner. It
‘ may

Sir John
Barnard's
speech.

‘ may be a precedent, Sir, for a future minister to
‘ wreck his indignation upon any civil magistrate ;
‘ but we have no room to imagine that he would
‘ bring in any such bill against another minister, let
‘ him hate him never so much, because that may
‘ be a preparative for serving himself in the same
‘ manner by a succeeding minister who is in power,
‘ and who hates him.’

*Sir Robert
Walpole's
speech.*

‘ Sir, ever since I had the honour to sit in this
‘ house, I never heard any affair more dispassionate-
‘ ly examined into, more candidly discussed, and
‘ more patiently attended to, than the present,
‘ especially by the gentlemen of the country where
‘ this scene of murder and rebellion happened ; and
‘ indeed, as I stand affected in the present question,
‘ I could be almost tempted to wish, that the gen-
‘ tlemen of that country had defended the cause of
‘ their city and its magistrates with less eloquence
‘ and calmness than they have done, and at the
‘ same time that some other gentlemen had behaved
‘ with more decency and temper : For after the
‘ impartial behaviour of this house, Sir, in the
‘ present question, I cannot see the good tendency of
‘ these inflammatory speeches that have been thrown
‘ out by some gentlemen upon this occasion. For
‘ my part, Sir, I disdain the distinction that has
‘ been made betwixt the civil magistrate and the
‘ minister of state. And I hope, I never have given
‘ any grounds, by my behaviour as a minister, to
‘ imagine I would have a regard to any such di-
‘ stinction. And I am sure, Sir, the behaviour of
‘ the ministry upon this occasion, can give no
‘ room for any of these inflammatory insinuations.
‘ The subject of the present bill was thought to be
‘ in the other house of so important a nature, that
‘ they spent a great deal of the present session in the
‘ examination of this affair, and have sent down the
‘ bill

‘ bill to us in the shape it is at present. We our-
 ‘ selves, Sir, after a long and painful examination,
 ‘ have found there has been a cruel murder and
 ‘ a rebellion committed in that city. There is no
 ‘ gentleman but must own, that these are two
 ‘ crimes that ought to be severely punished, upon
 ‘ not only the authors, but even upon such as in
 ‘ the most distant manner were their abettors. And,
 ‘ Sir, from the course of evidence that has been
 ‘ laid before this house, I can with a good con-
 ‘ science say, that had the towns of *Bristol, Nor-*
 ‘ *wich, &c.* or any of our great incorporations in
 ‘ *England*, behaved in the manner the magistrates
 ‘ and citizens of *Edinburgh* did in the present occa-
 ‘ sion, I should have been as forward as any gen-
 ‘ tleman in this house to have inflicted as severe, if
 ‘ not a severer, punishment upon them, than what
 ‘ is implied by this bill against the other. In short,
 ‘ Sir, I think that we should err against all pru-
 ‘ dence and good politics, should we, without once
 ‘ committing it, reject the present bill. If, after
 ‘ it is committed, gentlemen should think fit to
 ‘ make such amendments to it, as may leave the
 ‘ privileges of the incorporation of *Edinburgh* un-
 ‘ touched, and remit the most penal part of the
 ‘ punishment of the Lord Provost; and if these
 ‘ amendments should be founded upon reason and
 ‘ equity, I shall by no means be against them: But
 ‘ in the mean time I heartily vote for committing
 ‘ the bill.’

Walter Plummer Esq; stood up next, and among
 other things said, ‘ He was of opinion there could
 ‘ nothing new come out in debate, when the bill
 ‘ should be committed, that did not then appear:
 ‘ And that as they had heard the evidence exa-
 ‘ mined, he thought there was no occasion to take
 ‘ up the house’s time longer about it at this ad-
 ‘ vanced season: For since they had no other rule

Mr. Plum-
mer’s speech.

‘ to

‘ to go by in the present affair, than what arose from
 ‘ the evidence; and as that appeared so lame, that
 ‘ not a single point was proved against the Provost
 ‘ or citizens of *Edinburgh*, he was of opinion, they
 ‘ could do nothing more agreeable to equity or rea-
 ‘ son, or to the honour and dignity of Parliament,
 ‘ than to drop the bill intirely.’

Upon a division, 218 were against, and 224 for the commitment.

The substance of what was farther said in the following debates upon the bill, may be summed up in the following argument for and against the bill.

Argument
 against the
 bill.

‘ As I am of opinion, Sir, that the present bill,
 ‘ being founded on no evidence, ought not to pass
 ‘ in any shape; I am naturally led to oppose the
 ‘ amendment, of laying a fine upon the city of *Edin-*
 ‘ *burgh*. I think, Sir, it never has yet been ad-
 ‘ vanced, that every one of the citizens of *Edinburgh*
 ‘ were concerned in this riot; and yet by the pre-
 ‘ sent shape of the bill, they are all equally amer-
 ‘ ciated: But allow me to say, Sir, that if there
 ‘ was one person innocent in that city, an injustice
 ‘ is done to him by the present bill, in so far as it
 ‘ affects the community of which he is a member.
 ‘ And this, Sir, must be always the consequence of
 ‘ bills of this nature, which are dangerous when
 ‘ brought against private persons, but more so when
 ‘ brought against corporations and communities:
 ‘ And if there are any instances, Sir, of communi-
 ‘ ties being punished for the faults of their magi-
 ‘ strates or citizens, I think these instances ought
 ‘ to be very sparingly used as precedents, especially
 ‘ when inflicted by a bill of this nature. They are
 ‘ precedents which may be made for frightening
 ‘ every city and borough of the kingdom into a
 ‘ mean

mean compliance with every command of a prime minister; by which means he may always have a majority in this house, as ready as their constituents, to obey his most wicked commands. By such a Parliament, and by means of such bills, even counties may be robbed of all their privileges, and on account of a mob raised there perhaps for that very purpose by the tools of power. But of all the precedents I ever heard of, this now before us is, I think, of the most dangerous nature. When the magistrates or inhabitants of a city or corporation, or the members of any community, have been openly and maliciously guilty of any heinous crime, the inflicting of a punishment upon the community for the crimes committed by its members, may not be of such dangerous consequence; because it can never be made a precedent for persecuting any other community altogether innocent: But if you make the negligence, or even the pusillanimity of the magistrates, or of the inhabitants, a good pretence for taking away by bill any of the privileges or franchises of any city or corporation in *Great Britain*, no corporation can be secure of any of its privileges; because a prevailing party in Parliament may judge that to be neglect or pusillanimity, which was really in itself a wise and a prudent behaviour. A tool of power may be hired to provoke the very dregs of the people to pull his house down, or to duck him in a horse-pond; and because the magistrates did not, or could not, come time enough to prevent the mischief he richly deserved, it may be made a pretence for disfranchising the corporation by a bill of pains and penalties. Thus a sort of Parliamentary *Quo Warranto's* may be issued against every corporation in *Great Britain*, that happens not to be in the good graces of the prevailing party in Parliament.

I con-

‘ I confess, Sir, it appears a little odd, that such
‘ an audacious tumult should have happened, such
‘ a wicked purpose should have been so successfully
‘ perpetrated in the city of *Edinburgh*, without any
‘ fault or neglect in any of the persons entrusted
‘ with the government of that city ; but I can find
‘ no reason to blame the conduct of any of them,
‘ except the captain of the city guard : He, indeed,
‘ by the evidence he has given at this bar, has shewn
‘ himself blamable in several parts of his conduct.
‘ He has told us, that on the *Friday* before the mob
‘ happened, the Provost gave him orders to inquire
‘ into the grounds of the report that had been spread ;
‘ but he was so far from complying with these or-
‘ ders, that he went out of town that very evening,
‘ and did not return till *Monday* evening. He has
‘ told us, there were eight or nine of his men ab-
‘ sent the very night the mob happened ; and, whe-
‘ ther with leave or without leave, it was certainly
‘ his fault they were so. He has told us, that when
‘ he was first informed of the mob’s gathering, in-
‘ stead of marching with a party of his guard to dis-
‘ perse them, which by the custom of that city he
‘ ought to have done ; for in such cases he was not
‘ to wait for orders from the Provost or any other
‘ magistrate ; I say, instead of marching to disperse
‘ the mob upon its first appearance, or instead of
‘ staying to defend his guard-house against whatever
‘ might happen, he left his post, he ran away both
‘ from the mob and from his post, under pretence
‘ of going to acquaint the Provost with what had
‘ happened. Was this acting like an officer ? Does
‘ not every gentleman see that this conduct of his
‘ was the cause of the mob’s getting possession of
‘ the guard-room, which greatly contributed to their
‘ success ; for if they had been disappointed in this
‘ their first attempt, it would have so discouraged
‘ them, that they might probably have despaired
‘ of being able to execute, and consequently would
‘ have

‘ have desisted from attempting any farther to execute their chief purpose. It is no excuse for the captain, that the Provost desired him to return to him: That desire was no order; and if it had, it was given upon a supposition of no immediate danger. When the captain heard the mob was up, and his guard of consequence in danger, surely he ought not to have left his post; he might have sent his serjeant for orders from the Provost. To this I must add, that the keeper of the city muster-rolls seems likewise to be greatly to blame; for if at other times he was usually under petticoat orders, at such a time, at a time when the city was in such danger, as he seems to have had some share in the government of that city, he ought to have put himself under the orders of the chief magistrate, and ought to have attended him for that purpose.

‘ Some gentlemen have talked so much of the cruelty and barbarity of *Porteous's* murder, that they seem to have quite forgot the murders he had committed, and for which he was condemned by the laws of his country. Even in *England*, I believe, the jury would always bring it in murder, if the person who fired, or gave orders to fire, was under no great necessity of firing; because no man can be supposed to fire deliberately, or to give deliberate orders to fire upon a crowd of people, without a malicious intention; unless he be brought under a necessity to fire, either in defence of his own life, or for the sake of executing that duty which the law commands him to execute; and as neither of these was the case of *Porteous* at the execution of *Wilson*, therefore if he either fired, or gave orders to fire, which the jury had found, and the people believed he did, he was certainly guilty of all the murders then committed. So that whatever neglect the Provost or magistrates of *Edinburgh* were guilty of, I hope it will not be

‘ be thought that *Porteous* was altogether innocent ;
‘ at least he certainly was not so in the eyes of the
‘ people.

‘ Some gentlemen seem to have very little apprehensions from any resentment the *Scots* can shew ;
‘ but if, by injustice and oppression, we should unite
‘ that whole nation against us, they may come to
‘ make us feel their resentment, as they have often
‘ done before. In such a case, we are not to trust
‘ to the superiority of our power. In *Edward* the
‘ first’s time our power was at least as much superior as it is at present. *Edward*, by stratagem or
‘ otherwise, got the greatest part of *Scotland* to submit to him ; and if they had met with civil and
‘ just treatment, that submission might have continued : But they were oppressed, and that oppression raised such a spirit among the people, that a
‘ private gentleman, Sir *William Wallace*, opposed
‘ with success, for many years, the whole power of
‘ *England*, and I may add, of many of the nobles
‘ of *Scotland*.

‘ We are not to form an idea of what we have
‘ to apprehend from the resentment of the people of
‘ *Scotland*, when all united together, from what happened in the year 1715. We know there was but
‘ a small part of that people engaged in that rebellion ; and small as it was, if the promises that had
‘ been made to them by their friends in *England*
‘ had been performed, I am afraid they would have
‘ shook, if not overturned, the *British* throne. They
‘ had at that time neither a leader experienced in
‘ war, nor friends that could give them any assistance. Accidents may, if occasion offers, furnish
‘ them with the former, and experience will make
‘ them look out for such friends as they may depend
‘ on. For this they cannot be at a loss : We know
‘ how many ancient leagues have been between
‘ *France* and *Scotland* : We know what honours and
‘ privileges the *Scots* formerly enjoyed in that country.

' try. We know what respect and esteem they still
 ' meet with, and deservedly meet with in that coun-
 ' try. They have more than once greatly contri-
 ' buted to prevent that country's being conquered by
 ' *England*; and if we should reduce them to the fa-
 ' tal necessity of submitting to the one, or of being
 ' oppressed by the other, they may hereafter con-
 ' tribute towards *England's* being conquered by
 ' *France*. We are now, by the union, made one
 ' and the same people: While we continue so, while
 ' we break no article of the union, as we are an
 ' island, as we are in some manner a world by our-
 ' selves, we may, by good management, give laws
 ' to the world; but if we should revive our old di-
 ' stinctions and animosities, we shall expose ourselves
 ' to be not only invaded and insulted, but perhaps
 ' conquered by our neighbours upon the continent.
 ' In case of any such misfortune, the people of *Eng-*
 ' *land* will always be the greatest sufferers, as they
 ' have always heretofore been; because, as we en-
 ' joy the most fertile and best part of the island, the
 ' conquerors will settle here, and will rather court
 ' the friendship, than be at the pains to conquer the
 ' country, of the people of *Scotland*. If gentlemen
 ' would consider this, I am sure they would avoid
 ' every thing that might in the least tend towards
 ' reviving the distinction and animosity that subsist-
 ' ed so long, and so much to the detriment of each,
 ' between the people of the southern and northern
 ' parts of this island; and as this must be the certain
 ' consequence of the bill now before us, I wish it had
 ' never been mentioned, I am sure it ought not to
 ' be passed.'

' Proceedings of Parliament by bills of this nature Argument
for the bills
 ' have been so frequent of late, that I shall not take
 ' up your time with mentioning particularly what
 ' every gentleman must know. But, in order, Sir,
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‘ to form another objection against this bill, a new
‘ doctrine has been broached, which now I am not
‘ a little surprized at. It has been said, that it would
‘ be unjust to involve the innocent in the same pu-
‘ nishment with the guilty, which must always be
‘ the case when you punish a corporation or com-
‘ munity, for the crimes or the faults of some of its
‘ inhabitants or members. Does not every gentle-
‘ man see, that if this were established as a maxim,
‘ no punishment could ever be inflicted, no censure
‘ could ever be passed upon any corporation or com-
‘ munity whatsoever? Punishments are sometimes
‘ designed as a terror to others, as well as for pu-
‘ nishing the guilty; and to make that terror the
‘ more effectual for the end intended, which is to
‘ prevent people’s being guilty of such a crime, at
‘ some times, or in some cases, it becomes necessary
‘ to make some innocent persons suffer for the crimes
‘ of the guilty. Is not this the case with respect to
‘ treason, where the innocent posterity are made to
‘ suffer for the crimes of the guilty ancestor, in or-
‘ der to terrify men the more effectually from being
‘ guilty of any treasonable practices? For the same
‘ reason, the innocent members of a community
‘ must be sometimes made to suffer for the crimes of
‘ the guilty; because such an example will make
‘ every member of every community more active
‘ and vigilant, in preventing their fellow-members
‘ from being guilty of any crime, or in discovering
‘ the authors and bringing them to condign punish-
‘ ment, after any crime has been committed. This is
‘ a maxim in politics so just and necessary, that we
‘ have multitudes of examples upon our journals,
‘ where cities and corporations have not only been
‘ fined, but have been annihilated, or stripped of
‘ their most valuable rights and privileges, for crimes
‘ in which it could not be supposed that all the in-
‘ habitants were voluntarily assisting, or any way
‘ concerned.

‘ We

‘ We have been not only told, Sir, that this bill
‘ is unjust with respect to private men, by involving
‘ the innocent in the same punishment with the guil-
‘ ty ; but we have likewise been told, that it is a
‘ breach of the law of nations, and an injustice done
‘ to the whole people of *Scotland*. The former
‘ charge I have shewn to be without any foundation,
‘ because it is often necessary, for the preservation
‘ and welfare of society, to make the innocent suffer
‘ for the crimes of the guilty ; and now I shall beg
‘ leave to examine the latter. There is no man has
‘ a greater regard for the people of *Scotland*, and for
‘ the articles of the Union than I have. I shall never
‘ give my consent to any thing that may seem to be
‘ an injury to the one, or an infringement of the
‘ other. But in the present case, I can see no ground
‘ for pretending that this bill imports a breach of
‘ any article of the Union, or that it will be an in-
‘ jury to the whole or any part of the people of *Scot-*
‘ *land*. The rights and privileges of the royal bo-
‘ roughs of *Scotland* are, ’tis true, secured by the 21st
‘ article of the treaty of Union ; but as the united
‘ kingdom is, by the 3d article of the same treaty,
‘ made subject to the same Parliament or legislative
‘ power, a condition must be supposed to be impli-
‘ ed in every article, for making it liable to such
‘ alterations as the Parliament of *Great Britain* shall
‘ afterwards think necessary for the preservation, or
‘ even for the good of the whole. Upon this maxim
‘ it certainly was, that the right of patronages was
‘ restored in *Scotland* by a Parliament since the Uni-
‘ on ; though there is nothing more firmly and more
‘ unalterably established by the articles of Union, than
‘ the Presbyterian church government, religion, wor-
‘ ship, discipline, and privileges, as they stood esta-
‘ blished at the time of the Union. And though we
‘ were to suppose no such condition implied in this
‘ article, yet the security thereby stipulated can re-
‘ late only to those rights and privileges which are

‘ essential to the whole, or to any one of the royal
‘ boroughs in *Scotland*. It cannot be supposed to
‘ mean, that the Parliament of *Great Britain* shall
‘ never be able to make the least alteration or amend-
‘ ment, with respect to any right or privilege which
‘ any one royal borough was then in possession of.
‘ And much less can it be supposed to mean, that
‘ the Parliament of *Great Britain* shall never have it
‘ in its power to punish, or even to disfranchise any
‘ royal borough in *Scotland*, for the most heinous
‘ crime it can be guilty of. This bill cannot there-
‘ fore be supposed to be a breach of any article of
‘ the union; and as to the people of *Scotland*, it is
‘ certainly their interest, it is what all good men
‘ must desire, to live in peace and security; there-
‘ fore no step taken, nor any punishment inflicted,
‘ with a view only to prevent mobs and riots, can
‘ be an injury to the whole, or any part of the peo-
‘ ple of that country.

‘ That the city of *Edinburgh* shewed great fidelity
‘ and attachment to their Sovereign in the year 1715,
‘ I shall be far from disputing; but, Sir, it was
‘ their duty to do so; it was their interest; they
‘ would have suffered irreparably if they had done
‘ otherwise; they would have betrayed their own
‘ liberties and properties, as well as those of the
‘ whole nation; therefore they cannot, from their
‘ services at that time, plead a full pardon for a most
‘ heinous offence lately committed: They may from
‘ thence plead for a mitigation of the punishment
‘ they deserve; and I am sure there is no punish-
‘ ment in this bill equal to what such a high insult
‘ upon the crown ought to meet with. But what-
‘ ever stead their guard or their gates might stand
‘ them in upon that occasion, surely a regiment of
‘ his Majesty’s troops will always stand them in bet-
‘ ter stead than their guard; and if a barricade be
‘ as good a defence as a gate, even in case of a re-
‘ bellion, they can be in no danger from having one
‘ of

‘ of their gates laid open. For my part, I am apt
 ‘ to think, neither their guard nor their gates would
 ‘ at that time have defended them from the rebels,
 ‘ if his Majesty’s troops had not marched speedily
 ‘ to their assistance; and therefore that city, as well
 ‘ as the whole nation, must own their obligation to
 ‘ the noble Duke who then commanded at *Stirling*;
 ‘ who, notwithstanding his having so small a num-
 ‘ ber of troops under his command, notwithstand-
 ‘ ing his being attacked by two armies of rebels at
 ‘ once, one of them much superior, and the other
 ‘ very near equal to him in number, yet managed so
 ‘ much like a brave and expert commander, as to
 ‘ secure both the capital of the kingdom of *Scotland*,
 ‘ and the important pass at *Stirling*.

‘ Thus, Sir, if the charge against the Provost and
 ‘ citizens of *Edinburgh* be true, which seems to me
 ‘ clearly made out, I think I have shewn, there is
 ‘ nothing extraordinary in this method of proceed-
 ‘ ing; there is no injustice, either public or private,
 ‘ in the bill.’

The speakers in the house of Lords were,

For the bill.

Lord Chancellor,
 Duke of *Newcastle*,
 Earl of *Abingdon*,
 Earl of *Strafford*,
 Earl of *Aylesford*,
 Lord *Delawar*,
 Lord *Lovell*,
 Earl of *Cholmondeley*,
 Lord *Hervey*,
 Bishop of *Salisbury*,
 Lord *Carteret*,
 Lord *Bathurst*.

Against the bill.

Duke of *Argyle*,
 Duke of *Athol*,
 Earl of *Crawford*,
 Earl of *Findlater* and
 Seafield,
 Earl of *Ilay*.

The Speakers in the house of Commons were,

For the Bill.

Sir Robert Walpole,
Sir William Yonge,
Thomas Winnington, Esq;
General Wade,
Mr. Attorney General,
Mr. Solicitor General,
Sir Matthew Skinner,
Henry Fox, Esq;
George Doddington, Esq;
Henry Pelham, Esq;

Against it.

Sir William Wyndham,
Sir John Barnard,
William Skippen, Esq;
Lord Polwartb,
Al. Hume Campbell, Esq;
Lord Glenorchy,
Lord Cornbury,
Duncan Forbes, Esq;
James Erskine, Esq;
Charles Areskine, Esq;
Patrick Lindsay, Esq;
James Oglethorpe, Esq;
Walter Plummer, Esq;
Sir Wilfrid Lawson.

THE debate on a motion for settling 100,000 l.
per annum on the Prince of Wales.

Motion for a
settlement
on the Prince
of Wales.

This affair was moved in the House of Commons by *William Pulteney*, Esq; and seconded by Sir *John Barnard* on Tuesday the 22d of February last; and on Friday the 25th, the same motion was made in the house of Lords by the Lord *Carteret*. As the arguments made use of in both houses were necessarily pretty much the same, we shall give an abstract of the debate in both houses by way of argument, answer, and reply. The argument for the motion was to the following effect, viz.

Argument
for the mo-
tion for a
settlement
on the Prince
of Wales.

‘ Sir, I have a matter of the highest importance
‘ to lay before you, a matter which chiefly concerns
‘ one of the greatest and most illustrious persons
‘ in the kingdom; but as the well-being of the na-
‘ tion depends upon his welfare and happiness, there-
‘ may justly say, the whole nation is deeply
‘ concerned

‘ concerned in the affair I am now to take the li-
‘ berty of laying before you ; and as our Parlia-
‘ ment is His Majesty’s first and chief council, there
‘ can be no question of a nature too high for our con-
‘ sideration: for which reason, every gentleman who
‘ has the honour to be a member of either house of
‘ Parliament, has not only a right, but is in duty
‘ bound to lay before the house, whatever he thinks
‘ may affect the happiness or the honour of his coun-
‘ try. The affair, I am now going to propose for
‘ your consideration, is indeed, an affair of so high
‘ a nature, that I should not of my own head, have
‘ taken upon me to have mentioned it to you ; but I
‘ have communicated my sentiments to several per-
‘ sons of the greatest rank and best families in the
‘ kingdom, persons with whom I should chuse to
‘ live, with whom I should chuse to die, and all of
‘ them, I find, are of the same sentiments with me :
‘ They are all of opinion, it is an affair which ought
‘ to be laid before Parliament, therefore I shall take
‘ upon me to mention it to you, and to make you
‘ a motion, which I hope will be unanimously
‘ agreed to.

‘ The Commons of *Great Britain* in Parliament
‘ assembled, have not only an undoubted right to
‘ make such grants, as they think are necessary for
‘ the honour and welfare of the nation, and to ap-
‘ propriate those grants to the uses for which they
‘ intend them, but likewise, Sir, they have a right
‘ to follow those grants, to examine into the appli-
‘ cation of them, and to punish those who shall be
‘ found to have misapplied them. Nay farther,
‘ they may annex to their grants such conditions as
‘ they should think proper, and if those conditions
‘ should not be performed, or if the occasions for
‘ which the grants were made, should cease, they
‘ may resume them, or may direct their being ap-
‘ plied to uses of a quite different nature. This, I
‘ say, is the undoubted right of the Commons of

‘ *Great Brittain* ; and therefore, if any money formerly granted by Parliament has not been applied, or has not been properly applied, to the use for which it was intended by Parliament, we have not only a right, but it is our duty to examine into it, and to direct that, for the future, it may duly, and in the most proper manner, be applied to that use for which it was granted.

‘ After having thus mentioned to you, Sir, one of the most undoubted rights of Parliament, I shall next take notice that by an ancient and a most reasonable maxim in our constitution, the Prince of *Wales*, the eldest son of the King, and heir apparent to the crown, ought to be made as free and independent as any other subject whatever ; and for that purpose, he ought not only to have a provision sufficient for supporting the dignity and grandeur of his high birth, but that provision ought to be settled upon him in such a manner, as to put it out of the power of any person to disappoint him of it : Not only his title to it ought to be made as firm and irrevocable, as any other private title in the kingdom can be, but he ought at least as soon as he comes to be of the age of fourteen, to be put into the actual and immediate possession. This has always been held as an established maxim in this kingdom, and we find our Parliaments have often interposed, and have taken upon them to enforce the observance of this maxim. Upon his late Majesty’s happy accession to the throne, the Parliament was then so sensible of the utility and reasonableness of this maxim, that they granted a very large addition to the civil list revenue, in order that an honourable and a sufficient provision might be settled upon his present Majesty, who then was Prince of *Wales* ; and it having been found during his late Majesty’s reign, that the civil list revenue, particularly appropriated for maintaining the honour and dignity of
‘ the

‘ the crown was too small, therefore a very large
‘ new addition was granted by the first Parliament
‘ of his present Majesty’s reign, in order that he
‘ might be enabled to continue the same provision
‘ for the present Prince of *Wales*, which he himself
‘ had enjoyed in the life-time of his father, from all
‘ which I must conclude, that the motion I am to
‘ make, for having a sufficient provision settled upon
‘ his royal highness the Prince of *Wales*, is a motion
‘ founded upon law, upon equity, upon wisdom and
‘ good policy, and upon precedent.

‘ But before I make my motion, give me leave,
‘ Sir, to inquire particularly into these several foun-
‘ dations, and to begin with the last, I shall shew
‘ from many undoubted authorities, that the Prince
‘ of *Wales* has always had, and ought to have a suf-
‘ ficient provision settled upon him, in such a man-
‘ ner, as to render him as independent of the crown,
‘ as any other subject can be. To recount all the
‘ precedents that occur in our histories and records,
‘ would take up too much of your time, and there-
‘ fore I shall take notice only of some of the most
‘ remarkable. King *Henry III.* granted to his eldest
‘ son *Edward*, afterwards King *Edward I.* the Duchy
‘ of *Guienne*, before he was fourteen years of age,
‘ and the moment the Prince was married, he not
‘ only confirmed his former grant by a new patent,
‘ but likewise granted him, and put him in possession
‘ of the Earldom of *Chester*, the cities and towns of
‘ *Bristol*, *Stamford*, and *Grantham*, with several other
‘ castles and manors, created him Prince of *Wales*,
‘ to which he annexed all the conquered lands in
‘ that principality, and appointed him governor of
‘ *Ireland*, tho’ he was then but just turned of four-
‘ teen ; all which was done, as the historians express
‘ it, *ut maturius ad res graviores gerendas expertus*
‘ *redderetur*. By this generosity and benevolence of
‘ the King towards his eldest son, that Prince was
‘ early in his youth established in a state of inde-
‘ pendency

‘ pendency and grandeur, and those paternal favours
‘ were afterwards fully repaid by that illustrious and
‘ most heroic Prince ; for he afterwards proved his
‘ father’s chief and only support. Every one knows
‘ how by his courage and conduct at the battle of
‘ *Evesham*, he relieved his father out of the hands
‘ of his enemies, and restored his affairs after they
‘ were brought into a most desperate state. Nay,
‘ not only the King himself, but the whole nation
‘ reaped signal benefit from the free and indepen-
‘ dent circumstances in which that King had so early
‘ placed his eldest son. A state of independency
‘ naturally ennobles and exalts the mind of man ;
‘ and the effects of it were most conspicuous in this
‘ wise and brave Prince, for he afterwards became
‘ the glory of *England* and the terror of *Europe*.

‘ The next precedent I shall take notice of, is
‘ that of *Edward the black Prince*, upon whom
‘ *Edward III.* his father, settled at different times
‘ the Earldom of *Chester*, the Dutchy of *Cornwall*,
‘ the Principality of *Wales*, the Dutchy of *Guienne*,
‘ and the Principality of *Aquitain*. That wise and
‘ great King, Sir, was so sensible of the reasonable-
‘ ness of the ancient maxim of *England*, with regard
‘ to the King’s eldest son, that he took care every
‘ future Prince of *Wales* should have something to
‘ depend on, independent of his father, from the
‘ very moment of his birth ; for which purpose he
‘ settled by act of Parliament the Dutchy of *Corn-*
‘ *wall*, in such a manner, that the King’s eldest son,
‘ and heir apparent of the crown, has ever since been
‘ Duke of *Cornwall* as soon as born, and without
‘ any new grant from the King, from whence has
‘ risen the common proverb, *natus est, non datus dux*
‘ *Cornubiæ*. Some of the later grants of that King
‘ might, indeed, proceed from the great personal
‘ merit of the son ; but the first grants could not
‘ proceed from any such consideration ; they could
‘ proceed only from his own wisdom, and from the
‘ general

‘ general maxim I have mentioned ; for the Prince
‘ was not three years old, when his father settled
‘ upon him by patent the Earldom of *Chester* ; he
‘ was but seven years old, when *Cornwall* was
‘ erected into a Dutchy, and settled upon him by
‘ act of Parliament as before mentioned ; and he
‘ was but thirteen, when the Principality of *Wales*
‘ was settled upon him. Soon after that time indeed
‘ his personal merit began to appear ; but how came
‘ it to appear ? Its early appearance did proceed,
‘ and could only proceed from his father’s having
‘ put him so early into an independent situation,
‘ and from his having employed him in, and inured
‘ him to the study of weighty affairs, at an age
‘ when most Princes are industriously taught to think
‘ of nothing but baubles and toys.

‘ The same conduct, Sir, that wise King observed
‘ during that brave Prince’s life : He was continu-
‘ ally heaping favours upon the Prince his son, and
‘ the Prince was continually repaying them with
‘ glorious acts of gratitude and filial duty. When
‘ he was but seventeen, he fully repaid all former
‘ favours by having the chief share in the victory
‘ obtained over the *French* at the famous battle of
‘ *Creffy*. In the 24th or 25th year of this Prince’s
‘ age, the King invested him with the Dutchy of
‘ *Guienne*, which new favour he soon after repaid,
‘ by sending the King of *France* home prisoner to
‘ his father, after having defeated and taken him at
‘ the memorable battle of *Poictiers*. And in the
‘ two and thirtieth year of that Prince’s age, a great
‘ part of *France* having been conquered and subdued
‘ by valour, the King his father erected *Guienne*,
‘ *Gascony*, and several other provinces of *France*,
‘ into a Principality, under the name of the Princi-
‘ pality of *Aquitain*, with which he invested the
‘ Prince his son : This new favour likewise the
‘ Prince soon repaid, by carrying the glory of the
‘ *English* arms into *Spain*, and replacing *Peter* upon
‘ the

‘ the throne of *Castile*, after having defeated the
‘ usurper *Henry*, at the battle of *Nejara* in that
‘ kingdom ; for all which glorious victories, and
‘ many other great services done to his native coun-
‘ try, the nation was so grateful to his memory, that
‘ immediately after his death, or at least so soon as
‘ their grief for the loss of so brave a Prince would
‘ give them leave, the house of Commons addressed
‘ the King to create his son Prince of *Wales* and
‘ Duke of *Cornwall*, which that wise King imme-
‘ diately agreed to ; for his grandson being then
‘ heir apparent to the crown, he became intitled, by
‘ the maxim I have mentioned, to an independent
‘ settlement ; but as he was not the King’s eldest
‘ son, he had no pretence from any former prece-
‘ dent to the Principality of *Wales*, and his right by
‘ the late act to the Dutchy of *Cornwall*, was thought
‘ to be doubtful by the lawyers of that age, the
‘ lawyers being then, it seems, as dextrous at starting
‘ doubts and scruples, as the lawyers of the age we
‘ now live in.

‘ Give me leave, Sir, to mention one other pre-
‘ cedent, that of Prince *Henry*, afterwards the glo-
‘ rious King *Henry V.* whom his father *Henry IV.*
‘ in the very first year of his reign, created Prince
‘ of *Wales*, Duke of *Cornwall*, and Earl of *Chester*,
‘ tho’ the Prince was then but twelve years of age ;
‘ all which grants were recorded upon the Parlia-
‘ ment’s request, in order to prevent any possibility
‘ of a revocation ; and tho’ that King was naturally
‘ of a jealous and suspicious temper, yet, we find,
‘ during his whole reign, he was every now and then
‘ making new grants to the Prince his son, even
‘ tho’ he was sometimes maliciously made believe,
‘ the Prince was conspiring against him. This
‘ Prince, it is true, fell into some excesses incident
‘ to youth and idleness, but from the first part of
‘ his life, and from his conduct after he became King,
‘ we may judge that those excesses were rather owing
‘ to

‘ to his father’s jealousy than to his own natural
‘ temper; for when he was but about sixteen, he,
‘ by his valour, contributed greatly to his father’s
‘ victory over the rebels at *Shrewsbury*; and the
‘ very next year, having been entrusted with the
‘ command of his father’s army against the rebels in
‘ *Wales*, by his conduct and courage, he gave them
‘ two signal defeats, by which he gained so much
‘ esteem, that the King his father, from his own na-
‘ tural and unhappy temper, and not from any un-
‘ dutiful behaviour in his son, began to grow jea-
‘ lous of him, and therefore never afterwards em-
‘ ployed him in any public affairs; so that the ex-
‘ cesses he fell into, probably proceeded from the
‘ idleness of his life, and the activity of his genius,
‘ or perhaps rather from a design of removing from
‘ his father all future occasions of jealousy. This,
‘ indeed, seems to be confirmed, or at least render-
‘ ed the most probable conjecture, by his conduct
‘ after he became King; for immediately upon his
‘ accession, he banished from his presence all the
‘ companions and sycophant upholders of his former
‘ debauches, and became one of the greatest, and
‘ one of the most glorious Kings, that ever sat upon
‘ the *English* throne.

‘ But, Sir, it is quite unnecessary to mention par-
‘ ticularly all the examples that could be brought of
‘ the great and irrevocable provisions that have been
‘ made for the eldest sons of our Kings. We have
‘ not, it is true, had many Princes that have come
‘ to man’s estate in the life-time of their fathers;
‘ but every one of them that has done so, has had
‘ an independent settlement made upon him long
‘ before he was of age. Nay, even the presump-
‘ tive heirs of the crown have always had an inde-
‘ pendent settlement made upon them, generally as
‘ soon as they began to be the presumptive heirs
‘ of the crown: For proof of this, I need bring
‘ no other example but that of the late King
‘ *James*

‘ *James II.* when Duke of *York*, and that of the
‘ late Queen *Anne*, when Princess of *Denmark*; for
‘ the Duke of *York* had a great settlement made
‘ him by Parliament, soon after the restoration, tho’
‘ he was but presumptive heir of the crown, his
‘ brother King *Charles* being then in a capacity of
‘ having children; who would have given him a
‘ more effectual exclusion than ever could be attain-
‘ ed by Parliament, till his own ridiculous measures
‘ put it in their power; and the late Queen *Anne*,
‘ when Princess of *Denmark*, had likewise a great
‘ settlement made upon her by authority of Parlia-
‘ ment, though King *William* and Queen *Mary*
‘ were both then alive, and in a capacity of having
‘ children; so that the Princess *Anne*, when that
‘ settlement was made, was but the presumptive heir
‘ of the crown.

‘ From these precedents it appears, Sir, that the
‘ maxim of having an independent provision settled
‘ upon the apparent or presumptive heir of the
‘ crown, is a maxim which has always been ob-
‘ served in this nation; and that the Parliament
‘ may interpose for that purpose, I shall likewise
‘ shew from several precedents. I have already
‘ mentioned to you the address of the house of Com-
‘ mons in favour of *Edward the black Prince*’s eldest
‘ son, therefore I shall proceed to mention some
‘ others of a late date. In the first year of King
‘ *Henry IV.* the Lords and Commons, upon proper
‘ motions for that purpose, desired of the King that
‘ his eldest son, Prince *Henry*, might be created
‘ Prince of *Wales*, Duke of *Cornwall*, and Earl of
‘ *Chester*; and in the same Parliament the Commons
‘ petitioned the King, that the charter of the said
‘ Principality and Earldom, and an act of the said
‘ creation, might be enrolled and entered upon re-
‘ cord, as an article agreed upon by Parliament;
‘ both which that King immediately complied with;
‘ for as he had been called in by the people, and
‘ raised

‘ raised to the throne by the Parliament, he had so
‘ just a sense of the obligations he lay under both
‘ to his people and Parliament, as not to refuse
‘ any just request they could make. In the reign
‘ of *Henry VI.* the Parliament not only took care
‘ to have the Principality of *Wales* settled upon
‘ Prince *Edward*, eldest son of the King; but
‘ likewise declared and ascertained the particular sums
‘ that were to be allowed for his table, till he came
‘ to be of the age of fourteen, when he was to be
‘ put in possession of the whole revenues of the Prin-
‘ cipality of *Wales*, Dutchy of *Cornwall*, and Coun-
‘ ty *Palatine* of *Chester*. And but lately, in the
‘ beginning of the reign of King *William* and
‘ Queen *Mary*, the house of Commons resolved to
‘ address their Majesties to make a settlement on
‘ the Princess *Anne* of *Denmark*, who was then but
‘ presumptive heir of the crown; which resolution
‘ does not, it is true, seem to have been very agree-
‘ able to the court, with regard to the sum at first
‘ proposed, but the right the Parliament had to
‘ present such an address was so far from being
‘ controverted, that after the dispute about the sum
‘ was settled, even the courtiers themselves joined
‘ the next session, in the resolution for that pur-
‘ pose; which plainly evinces the power and the
‘ duty of Parliament, with respect to their address-
‘ ing for having a sufficient provision settled inde-
‘ pendently upon the heir apparent or presumptive
‘ of the crown, and consequently will from prece-
‘ dent justify the motion I am to make.

‘ Now, Sir, with respect to wisdom and good
‘ policy, that of having the heir apparent of the
‘ crown bred up in a state of grandeur and indepen-
‘ dency, is certainly a maxim of great use in all
‘ countries, but in a free country it is absolutely ne-
‘ cessary. A free and generous education tends
‘ greatly to open the mind, to endow it with noble
‘ and right sentiments, and to shut out all mean,
‘ narrow,

‘ narrow and selfish views, therefore it is the only
‘ proper education for one who is by his birth to
‘ have the chief rule over any people ; but for one
‘ who is to have the chief rule over a free people,
‘ such an education becomes absolutely necessary ;
‘ for, besides the advantages already mentioned, a
‘ Prince who has lived in a state of freedom and
‘ independency before he begins his reign, thereby
‘ learns how to be a dutiful and obedient subject,
‘ without being an abject slave ; and by tasting in
‘ his youth the sweets of such a delicious state, he
‘ comes to know the true value of it, from whence
‘ he must necessarily conclude, his subjects will not
‘ easily part with it ; and therefore, when he comes
‘ to mount the throne, he not only knows how to
‘ exact a dutiful obedience, without expecting a sla-
‘ vish submission, but he will in common prudence
‘ content himself with the former, because he knows
‘ he cannot, without great danger, aim at the latter.
‘ Such a Prince will always be sure of being well
‘ served, because he can with patience receive an ho-
‘ nest and a free advice from his ministers and fa-
‘ vorites, he will not take it ill to be even controul-
‘ ed by his council or his Parliament ; whereas a
‘ Prince educated in slavery and advanced to power,
‘ being unacquainted with any sort of submission but
‘ that he has himself been bred to, is apt to look
‘ upon every honest freedom as a mark of disrespect
‘ or disobedience ; and as he cannot bear sincerity,
‘ he may expect never to meet with it from any of
‘ his pretended friends or favorites. Thus it ap-
‘ pears to be requisite, both for the honour and
‘ prosperity of the Prince who is to reign, and for
‘ the ease and happiness of the people over whom
‘ he is to reign, that he should be bred up in a state
‘ of freedom and independency.

‘ But farther, Sir, even with regard to the King
‘ upon the throne, especially in this nation, the
‘ grandeur and independency of his heir apparent
‘ must

‘ must be of great service to him. The affection
‘ and esteem which the heir apparent acquires among
‘ the people, is so far from being a disadvantage to
‘ the King, that it must always be, and has always
‘ been reckoned one of the most solid supports of the
‘ crown. The great and the wise King *Edward* the
‘ third was so far from being jealous of any glory or
‘ esteem the Prince his son might acquire, that at the
‘ famous battle of *Cressy* he gave his son the chief
‘ command of that part of his army which was to
‘ attack the enemy, in order that he might have the
‘ sole glory of the victory, reserving to himself only
‘ the command of a great body of reserve, in case
‘ of accidents ; and when word was brought him
‘ that his son was in great danger, and hardly pressed
‘ by the enemy, his answer was, *I know my boy has*
‘ *courage, let him but push the enemy, he will certainly*
‘ *conquer : I am loth to rob him of any share of that*
‘ *glory I see he is in a fair way of obtaining.* Such
‘ were that great King’s sentiments : And in the
‘ charter of *Henry* the sixth to his son *Edward*, it is
‘ expressly declared, That by giving due honours
‘ to the Prince, the throne was established, and the
‘ royal scepter exalted ; and that therefore, by grant-
‘ ing the principality of *Wales* and county palatine
‘ of *Chester* to his son, he consulted his own honour,
‘ the security of the royal family, and the good of
‘ his people, rather than the Prince’s honour. From
‘ the behaviour of all our Kings towards their eldest
‘ sons, we may judge their sentiments have been
‘ the same : They have all been of opinion, that
‘ their eldest sons ought to live in grandeur, and
‘ that the more honour and esteem they acquired,
‘ the more they added to the security of the throne.
‘ But how can a Prince live in grandeur, who has no-
‘ thing of his own, or not a sufficiency to subsist on ?
‘ How can a Prince who is in a continual state of
‘ dependency, a continual state of slavery, acquire
‘ esteem from those who are themselves free and

‘ independent? The very submitting tamely to
‘ live in such a state, must derogate from his
‘ honour, and render him despicable in the eyes
‘ of a brave and a free people, which the people
‘ of this nation will, I hope, for ever continue
‘ to be.

‘ Suppose then, Sir, there were no precedent for
‘ having a sufficient and an independent provision
‘ settled upon the Prince of *Wales*; suppose there
‘ were no example of the Parliament’s having ever
‘ interposed for that purpose; yet if true wisdom
‘ and good policy require that it should be done, if
‘ the making of such a settlement can contribute to
‘ the honour of the King, to the security of the royal
‘ family, and to the happiness of the people, it is a
‘ thing that ought to be done; and if it should be
‘ unnecessarily delayed, has not the Parliament a
‘ right, are we not in honour, in duty bound to
‘ interpose, and to advise or petition our Sovereign
‘ that it may be done as soon as possible? But when
‘ we consider the constant course of proceeding in
‘ this particular, when we see how often the Parlia-
‘ ment has interposed, even when this provision was
‘ not to be made out of any grants from the people,
‘ but out of the King’s own estate, out of the lands
‘ and revenues properly belonging to the crown,
‘ can we balance a moment about our right, can we
‘ in duty to our King, or to that most illustrious and
‘ most deserving Prince his eldest son, delay request-
‘ ing that to be done which ought to have been done
‘ long before this time? Especially now, Sir, that
‘ no part of that provision is to come out of the lands
‘ or revenues properly belonging to the crown, but
‘ is wholly to be taken from a very liberal grant long
‘ since made by the people to the crown, and which
‘ has been of late greatly increased with this very
‘ view, that an honourable and a sufficient settle-
‘ ment might be made upon his royal highness the
‘ Prince

‘ Prince of *Wales*, as soon as the same should become necessary.

‘ This, Sir, of course leads me to consider the nature of that Parliamentary grant, now called the civil list revenue, from which it will appear, that what I am now going to propose, is founded both upon law and equity. In ancient times the estates and revenues properly belonging to the crown, were sufficient for supporting the honour and dignity of the crown and royal family; the people were charged with no taxes for that purpose, except a small custom upon the importation and exportation of goods and merchandize: No grant, no aid was ever desired from them, but when some extraordinary expence became necessary, for defending the nation against pirates or threatened invasions, or for vindicating and supporting its honour in some affair of great consequence, and of an extraordinary nature; but by the profuse liberalities of some of our former Kings, and by other accidents, the proper estate and revenue of the crown came at last to be so much diminished, that it was not near sufficient for supporting the honour and dignity of the crown and royal family; and therefore at the restoration of King *Charles* the second the dangerous tax called Tonnage and Poundage, and the more dangerous tax called Excise, were established and granted to that King for his life; and at the same time an additional excise was established in lieu of the wards and liveries, which were then abolished, and settled upon that King and his heirs and successors for ever; which taxes were designed partly for what is now called the Civil List, and the residue for what we now call the current service. Several other taxes were established in that and the following reign, and intended for the same purposes, without distinguishing or specifying any particular uses; but it having been found that the money granted by Parliament

‘ was often applied to purposes very different from
‘ those intended by Parliament, therefore, after the
‘ happy revolution, which put us in a condition of
‘ rectifying some former errors, and removing some
‘ of our former grievances, the custom of appropriat-
‘ ing each respective grant to its proper use, was in-
‘ troduced and established; and from that time the
‘ revenues granted to the crown by Parliament, came
‘ to be distinguished into the civil list revenue, and
‘ the current service revenue; the former being that
‘ which was granted and appropriated by Parliament
‘ for supporting the honour and dignity of the crown,
‘ and providing for the royal family; and the latter,
‘ that which was granted and appropriated by Par-
‘ liament for maintaining our fleets and armies, or pro-
‘ viding for any other extraordinary public services.

‘ In order therefore to determine what branches
‘ of the public charge were designed by Parliament,
‘ and ought in law and equity to be defrayed out of
‘ those grants appropriated to the civil list, we must
‘ examine, Sir, what uses that revenue was applied
‘ to, immediately after its being first distinctly esta-
‘ blished, which was in the reign of the late King
‘ *William*; and we find that during his whole reign,
‘ the provision appointed for the Princess *Anne* of
‘ *Denmark* was always charged upon, and paid out
‘ of his civil list revenue. Then again, upon his
‘ late Majesty’s happy accession to the throne, the
‘ Parliament granted and appropriated to the civil
‘ list the same taxes and revenues, which had been
‘ granted and appropriated to the civil list during
‘ the reign of his predecessor Queen *Anne*; but his
‘ late Majesty, in his first speech to the Parliament,
‘ took notice, *That the branches of the revenue, for-*
‘ *merly granted for the support of the civil government,*
‘ *were so far encumbered and alienated, that the pro-*
‘ *duce of the funds which remained and had been grant-*
‘ *ed to him, would fall much short of what was at first*
‘ *designed for maintaining the honour and dignity of the*
‘ *crown.*

‘ crown. To which he added, *That since it was his*
‘ *happiness to see a Prince of Wales, who might in due*
‘ *time succeed him on the throne, and to see that Prince*
‘ *blessed with many children, the best and most valua-*
‘ *ble pledges for his care and concern for our posterity ;*
‘ *that must occasion an expence to which the nation had*
‘ *not of many years been accustomed, but such as sure-*
‘ *ly no man will grudge.* Do not these words shew,
‘ that his late Majesty was of opinion, the civil list
‘ revenue was unquestionably to be charged with
‘ making an honourable provision for the Prince of
‘ *Wales*? And is it not as apparent, that the addi-
‘ tion granted to the civil list by Parliament, in con-
‘ sequence of that speech, was granted with an in-
‘ tention, that such a settlement should be granted
‘ out of that revenue to the Prince of *Wales*, as should
‘ be sufficient for supporting the dignity of his high
‘ birth, and the honour of the crown of *Great Bri-*
‘ *tain*, to which he was heir apparent? ’Tis plain
‘ his late Majesty meant so, and took the intention
‘ of Parliament to be so ; for within ten days after
‘ that law passed, he notified to his Parliament, that
‘ he had ordered letters patent for 100,000 *l.* a year
‘ to his royal highness the Prince of *Wales* out of
‘ the civil list revenue, and the same session an act
‘ passed for freeing the 100,000 *l.* so granted by his
‘ Majesty to the Prince of *Wales*, from payment of
‘ any fees or taxes ; and for empowering the com-
‘ missioners of excise and customs to pay directly to
‘ the Prince, or his treasurer, the produce of such
‘ branches of the civil list revenue as his Majesty
‘ should appoint for answering that settlement ; by
‘ which his royal highness was rendered so absolute-
‘ ly independent of the crown, with respect to his
‘ own proper revenue, that he was not so much as
‘ obliged to apply to his Majesty’s *Exchequer* for the
‘ payment of it : His revenue could not run in ar-
‘ rear ; even his Majesty’s Chancellor of the *Exche-*
‘ *quer* could not put him off with that common ex-

‘ cuse for not answering a just demand, that there
‘ was no money in the *Exchequer*: And I cannot
‘ omit taking notice, that at the very same time, in
‘ the very same session, there was also another act
‘ passed, for enabling his Majesty to grant to him
‘ the principality of *Wales*, and county palatine of
‘ *Chester*; which were immediately after granted to
‘ him accordingly.

‘ But now, Sir, to come to his present Majesty’s
‘ happy accession to the throne, and that Parliament
‘ which established the large civil list now settled
‘ upon the crown. During his late Majesty’s reign,
‘ by reason of some very extraordinary and uncom-
‘ mon disbursements, it had been found, that a civil
‘ list revenue even of 700,000 *l.* a year, as it had
‘ been managed, was not sufficient to support the
‘ honour and dignity of the crown, and to pay
‘ 100,000 *l.* a year to the Prince of *Wales*; for
‘ which reason several additional sums had been
‘ granted in that reign to the civil list, amounting
‘ in the whole to 1,300,000 *l.* which made the civil
‘ list during that reign amount, at an average, to
‘ 800,000 *l.* a year; therefore his present Majesty,
‘ in his first speech from the throne, told his Parlia-
‘ ment, *He was persuaded that the experience of past*
‘ *times would prevail upon them to shew a due regard*
‘ *to the honour and dignity of the crown*; which the
‘ Parliament, without examining into the reasons of
‘ that past experience, immediately complied with,
‘ and settled upon his present Majesty for his life,
‘ what the experience of past times had shewn to
‘ be necessary, and what had actually been given to,
‘ tho’ not settled upon, his father; with this re-
‘ markable improvement, that if the taxes appro-
‘ priated for that purpose produced more, the sur-
‘ plus should belong to his Majesty, but if they pro-
‘ duced less than 800,000 *l.* a year, the deficiency
‘ should be made good by Parliament; which new
‘ improvement seems to have had great influence
‘ upon

‘ upon some of our measures since that time ; for it
‘ seems to have made us endeavour, as much as pos-
‘ sible, to increase the produce of those taxes in
‘ which the civil list has the greatest share. Now I
‘ would gladly know what his present Majesty
‘ meant, or what the Parliament meant by the ex-
‘ perience of past times, which was the only ground
‘ for the resolution they came to with respect to the
‘ civil list : Surely they both meant, that an ho-
‘ nourable and a sufficient provision for the Prince
‘ of *Wales* should be chargeable upon the civil list
‘ revenue, and upon that only ; for the experience
‘ of past times had shewn, that 700,000 *l.* a year
‘ was not sufficient for supporting the honour and
‘ dignity of the crown, and for allowing 100,000 *l.*
‘ a year for the Prince of *Wales* ; but the same ex-
‘ perience had shewn, that 800,000 *l. per ann.* was
‘ sufficient both for the one and for the other ; and
‘ therefore by proceeding upon the experience of
‘ past times, and upon that only, and from thence
‘ settling 800,000 *l.* a year for his present Ma-
‘ jesty’s civil list, both his Majesty and his Par-
‘ liament must then certainly have meant, that
‘ out of that revenue a sufficient provision should
‘ be settled upon his royal highness, as soon as
‘ his future circumstances should require such a set-
‘ tlement to be made ; from all which I must con-
‘ clude, that the motion I am to make for this pur-
‘ pose, is a motion founded both upon law and
‘ equity.

‘ I think, Sir, I have now shewn, that according
‘ to law, according to equity and conscience, ac-
‘ cording to wisdom and good policy, and accord-
‘ ing to precedent, his royal highness the Prince of
‘ *Wales* ought to have a provision settled upon him,
‘ sufficient for supporting the dignity and grandeur
‘ of his high birth ; and that the Parliament not
‘ only has a right, but ought to interpose, and ad-
‘ vise his Majesty to do that, which in law, in equi-

ty, in wisdom, and according to precedent, ought to be done. The two next questions that will naturally occur in this affair, are, when that settlement ought to be made? And what may be thought a sufficient settlement? As to the time when it ought to be made; it ought certainly to have been made long before now. The mind of every man is formed early in his youth. Those notions and sentiments which are early imbibed, take deep root, and are seldom or never shaken off. If then an independent state can any way contribute to the improvement of a Prince's mind, the more early he is put into such a state, the better. According to this has the constant practice in this kingdom always been: King *Henry* the third made a settlement upon his eldest son *Edward*, afterwards King *Edward* the first, before he was fourteen. *Edward* the third made a settlement upon his eldest son *Edward the black Prince*, before he was three years of age; and within a few months after the death of that Prince the Commons addressed the King to make a settlement upon that Prince's eldest son, who by his father's death was become heir apparent to the crown. The post-office and wine-licence revenues were settled by Parliament upon the Duke of *York*, who was but presumptive heir of the crown, within three years after his brother King *Charles* the second's restoration. A settlement was made upon the Princess *Anne* of *Denmark*, who was likewise but presumptive heir of the crown, in pursuance of an address for that purpose from the house of Commons, the very first year, or the beginning of the second year of the reign of King *William* and Queen *Mary*. And his late Majesty ordered letters patent for making a settlement upon the present King, then Prince of *Wales*, within ten days after the Parliament had granted him a fund for that purpose. In short,

Sir,

“ Sir, look over all our histories, examine all former precedents, I believe no example can be found, where the making of such a settlement has been so long delayed, as in the present reign. What may be the reason, I shall not pretend to determine; but I am sure there never was a Prince of *Wales* who better deserved it, nor a crown revenue that could better spare it. It ought, in my opinion, to have been done as soon as his royal highness arrived in *England*, especially as he was then of full age, and, as every one that has the honour and happiness to know him, must grant, extremely capable to govern his own affairs; and since it is not yet done, it is high time for us to use the same liberty former Parliaments have often taken, it is high time for us to desire that it may be done.

“ Now, Sir, with regard to what may be deemed a sufficient settlement for his royal highness, I think there cannot properly be any question about it, because it seems to have been determined by that Parliament which established the civil list in the late King's reign, and also by that Parliament which established, and, from the experience of past times, increased the present civil list revenue. Both were certainly of opinion, and the latter have, I think, very expressly determined that his royal highness the present Prince of *Wales* was entitled to, and ought to have, at least 100,000 *l.* a year settled upon him out of the large civil list they then granted; for what else could they mean by settling a civil list revenue of 800,000 *l.* a year? The experience of past times, which, as I have said, was then the only ground for increasing that revenue, had shewn that 700,000 *l.* a year was sufficient for supporting the honour and dignity of the crown, without including what was allowed the Prince of *Wales*; and therefore by their adding to that yearly sum 100,000 *l.* a year more, and granting a civil list revenue of 800,000 *l.* a year at least, it
“ must

• must be supposed they meant and intended, that
• the 100,000*l.* they had so added to the civil list
• revenue, more than what the experience of past
• times had shewn to be sufficient, for maintain-
• ing the honour and dignity of the crown, should
• be settled upon the present Prince of *Wales*, be-
• sides the Principality of *Wales*, Dutchy of *Corn-*
• *wall*, and Palatinate of *Chester*, in the same man-
• ner as it had been settled upon the present King,
• while he was Prince of *Wales*: And indeed from
• the very nature of the thing, we are to judge so;
• for what reason could they then think of, or what
• reason can now be assigned, why the present Prince
• of *Wales* should live in less grandeur than his fa-
• ther did while he was Prince of *Wales*, or why
• the same grandeur might be supported at a less
• expence than had been before necessary? I can
• think of no reason but one, which is, That the
• nation is not now so rich as it was formerly: This,
• indeed, may at last come to be a good reason for
• diminishing the allowance or settlement for the
• Prince of *Wales*; and it is a reason for which, I
• am sorry to say it, I think there is too good a
• foundation; but then it is a reason for diminish-
• ing every other article of the public expence, espe-
• cially that belonging to the civil list; and I am
• far from thinking the provision for the Prince of
• *Wales* is the first we ought to begin with; for if
• any judgment can be formed from the experience
• of past times, 100,000*l.* a year, besides the now
• exhausted revenues of *Wales*, *Cornwall*, and *Chester*,
• is the least provision we can as yet think of allow-
• ing for supporting the dignity and grandeur of
• the heir apparent to our crown. I shall there-
• fore take it for granted, till I hear it contradicted,
• that it is now high time the provision for the
• Prince of *Wales* should be settled in the usual way,
• and that 100,000*l.* a year out of the civil list is
• the least provision we can suppose necessary, and
• the

‘ the least the Parliament that established the present
‘ civil list, designed he should have: These two
‘ points I shall now, I say, take for granted; but
‘ if both, or either, be controverted, I shall beg
‘ leave to explain myself more fully upon this head,
‘ unless some other gentleman, who is of the same
‘ opinion with me, and more capable of giving the
‘ reasons for his opinion, rises up and saves me that
‘ trouble. For this reason I shall not now take up
‘ your time with enlarging farther upon these two
‘ questions, but shall take the liberty to make you
‘ this motion:

‘ That an humble address be presented to his Ma-
‘ jesty, to express the just sense this house has of his
‘ Majesty’s great goodness and tender regard for
‘ the lasting welfare and happiness of his people, in
‘ the marriage of his royal highness the Prince of
‘ *Wales*; and as this house cannot omit any oppor-
‘ tunity of shewing their zeal and regard for his
‘ Majesty’s honour, and the prosperity of his family,
‘ humbly to beseech his Majesty, that, in confide-
‘ ration of the high rank and dignity of their royal
‘ highnesses the Prince and Princess of *Wales*, and
‘ their many eminent virtues and merits, he would
‘ be graciously pleased to settle 100,000*l.* a year
‘ on the Prince of *Wales*, out of the revenues cheer-
‘ fully granted to his Majesty, for the expences of
‘ his civil government, and better supporting the
‘ dignity of the crown, and for enabling his Ma-
‘ jesty to make an honourable provision for his
‘ royal family, in the same manner his Majesty en-
‘ joyed it before his happy accession to the throne;
‘ and also humbly to beseech his Majesty to settle
‘ the like jointure on her royal highness the Princess
‘ of *Wales*, as her Majesty had, when she was Prin-
‘ cess of *Wales*; and to assure his Majesty, that this
‘ house will enable him effectually to perform the
‘ same, as nothing will more conduce to the strength-
‘ ening his Majesty’s government, than honourably
‘ support-

‘ supporting the dignity of their royal highnesses,
 ‘ from whom we hope to see a numerous issue, to
 ‘ deliver down the blessings of his Majesty’s reign
 ‘ to the latest posterity.

‘ I know, Sir, that several arguments may be
 ‘ made use of against this motion, arguments which
 ‘ may seem to be of dignity and weight, because
 ‘ they can come from none but such as are in high
 ‘ stations, who for that reason ought never to op-
 ‘ pose what is just and honourable, and much
 ‘ less ought they upon any occasion to make use
 ‘ of weak and trifling objections. By such persons
 ‘ it may be said, that the presenting of such an
 ‘ address will be a sort of intermeddling in the do-
 ‘ mestic affairs between father and son, which the
 ‘ Parliament has no title, nor ever ought to inter-
 ‘ meddle with upon any occasion : But, Sir, I must
 ‘ beg leave to insist upon it, that our presenting
 ‘ such an address cannot be called intermeddling in
 ‘ any affairs either public or private ; it is only offer-
 ‘ ing advice to our Sovereign in an affair of great
 ‘ consequence to the nation in general ; and that we
 ‘ have not only a right, but are in duty bound to do,
 ‘ as often as we find it necessary. It is an advice
 ‘ which I am sure his Majesty’s ministers ought to
 ‘ have given him ; if they have not, they have been
 ‘ deficient in their duty, and the Parliament ought
 ‘ to make up that deficiency : If they have been so
 ‘ faithful as to offer the same advice, and have not
 ‘ succeeded, which, for what I know, may be the
 ‘ case, the address proposed becomes absolutely ne-
 ‘ cessary, it is what the ministers ought to be fond
 ‘ of ; because the address of Parliament will add
 ‘ weight to the good, tho’ unsuccessful, advice they
 ‘ have given. Then, Sir, with respect even to the
 ‘ domestic affairs of the royal family, they ought
 ‘ to be considered in a twofold respect : If they are
 ‘ such as may contribute to the honour and happi-
 ‘ ness of the nation in general, or such as may tend
 ‘ to

‘ to the dishonour of the kingdom, or to the bring-
‘ ing of any misfortune upon the people, they then
‘ come to be of a public nature; and if any false
‘ step be made, or any necessary step neglected, or
‘ too long delayed, it is the duty of Parliament to
‘ interpose; and of this sort surely is that affair to
‘ which the address now proposed relates.

‘ It may likewise be said, that the King is the
‘ only judge of the time when it is proper to make
‘ a settlement upon his royal highness the Prince of
‘ *Wales*, and of the amount of the revenue that may
‘ be proper or necessary for that purpose. To this,
‘ Sir, the answer is very plain and easy. There are
‘ many things in which the King has by his prero-
‘ gative the sole power of judging or acting, and
‘ yet in such cases, if any wrong measure happens to
‘ be pursued, or any proper measure neglected, the
‘ Parliament is in duty bound to act the part of a
‘ faithful counsellor to their Sovereign, and adver-
‘ tise him of what they imagine to be wrong. The
‘ two houses of Parliament, or either of them, may
‘ not only offer their advice, but they may go much
‘ farther, they may examine into the affair, and
‘ may punish those, who, by their weakness or wick-
‘ edness, have given his Majesty bad counsel. The
‘ King has the sole power of making treaties of
‘ peace and alliance, and of declaring war; and yet
‘ I hope it will not be said that the Parliament ought
‘ never to interfere, no, not so much as by an ad-
‘ dress, in any case of that nature: I hope it will
‘ not be said but that the Parliament may not only
‘ address upon such occasions, but may punish those
‘ ministers, who shall advise his Majesty to engage
‘ the nation in dangerous and destructive treaties,
‘ or who shall advise him to avoid a war, when
‘ both the honour and the interest of the nation
‘ make it necessary. Therefore, tho’ his Majesty
‘ be the only judge, when a settlement ought to be
‘ made upon the Prince of *Wales*, and what that
‘ settle-

‘ settlement ought to be, yet the Parliament may
‘ certainly interpose by an address, when the mak-
‘ ing of that settlement is too long delayed ; and
‘ now that his royal highness is not only of age,
‘ but is married, and as it were emancipated out of
‘ his father’s family, it is certainly high time for the
‘ Parliament to interpose: Surely it is not fit his
‘ royal highness should now depend upon his father,
‘ or rather upon his father’s ministers, for every
‘ shilling he may have occasion for. The very
‘ thought raises in my mind such ridiculous ideas,
‘ that it is with the utmost difficulty I can refrain
‘ from expressing myself in a manner far below the
‘ dignity of the subject: Nothing, indeed, could
‘ prevent it, but the great esteem, the high regard
‘ I have for the illustrious persons who seem to be
‘ concerned.

‘ In the next place, Sir, it may be said that his
‘ Majesty has a legal right to the civil list revenue
‘ as now established, and that the address proposed
‘ would be a sort of encroachment upon that right.
‘ I shall readily grant that his Majesty has a legal
‘ right to the civil list revenue ; so he likewise has a
‘ legal right to the revenue provided for the current
‘ service of the year ; and, I think, we but lately
‘ passed a law for hanging or transporting those who
‘ go armed with a design to rob or disappoint him
‘ either of the one or the other, which is more than
‘ any subject in the kingdom has for the protection
‘ of any sort of property ; but as both these revenues
‘ are granted by Parliament for certain and parti-
‘ cular uses, both ought to be applied to those uses
‘ for which they were granted, and the Parliament
‘ has a right to insist upon their being so applied.
‘ The civil list revenue was granted for supporting
‘ the honour and dignity of the crown, and making
‘ a sufficient provision for the whole royal family ;
‘ and if any part of that revenue should be purloin-
‘ ed, hoarded, or misapplied by the King’s mini-
‘ sters,

‘ fters, and the honour and dignity of the crown
‘ neglected, or any branch of the royal family not
‘ fufficiently provided for, the Parliament has as
‘ good right to address, and even to inquire into
‘ that misapplication, as they would have to inquire
‘ into the misapplication of the revenue provided
‘ for the current service, in case any part of that
‘ revenue should be applied to other purposes, and
‘ those services neglected for which it was intended
‘ by Parliament.

‘ Lastly, Sir, it may be said, that such an ad-
‘ dress would look something like a Parliamentary
‘ resumption, that it would look as if the Parlia-
‘ ment were going to resume and take back from
‘ his Majesty what was long since granted by Parlia-
‘ ment, and settled upon him, during his life. I con-
‘ fess, Sir, I do not like resumptions of any kind, I
‘ am always sorry when I find there is occasion for
‘ them; but nevertheless, a resumption may some-
‘ times become reasonable: When the cause of grant-
‘ ing any revenue ceases, the grant itself ought to
‘ cease, and therefore ought to be resumed, or ap-
‘ plied to some other purpose. For this, even with re-
‘ spect to the civil list revenue, we have a late prece-
‘ dent in point: In 1699, the Parliament granted to
‘ King *William* a civil list revenue of 700,000*l.* per
‘ annum, for the service of his household and family,
‘ and other his necessary expences and occasions. This
‘ grant was by law settled upon that King during his
‘ life; yet in 1701, we find the Parliament resumed
‘ 100,000*l.* a year, part of this 700,000*l.* civil list
‘ revenue, and applied it toward the payment of the
‘ public debts, for this exprefs reason, *because the*
‘ *occasions for which the said 100,000*l.* was given,*
‘ *were then ceased.* This, I say, is a precedent in
‘ point, for a resumption after the cause of granting
‘ has ceased; and, from a parity of reason, if it
‘ should be afterwards found that the cause of grant-
‘ ing

' ing did not require near so large a grant as was at
 ' first imagined, and therefore actually granted,
 ' ought not some part of that grant to be resumed,
 ' or applied to some other purpose? So that if it
 ' could be supposed that a less revenue than what
 ' was intended by Parliament would be sufficient
 ' for the Prince of *Wales*, there would be some
 ' reason for a resumption; but I am far from sup-
 ' posing any such thing: the address I have pro-
 ' posed shews the contrary, and therefore it cannot
 ' be presumed that my motion has the least ten-
 ' dency towards a designed resumption: It is only
 ' for having a part of the civil list revenue applied
 ' to that use for which it was granted by Parliament,
 ' and to which it ought in law, in equity, and in
 ' wisdom and good policy, to be applied; there-
 ' fore I hope my motion for that purpose will be
 ' unanimously agreed to.'

To this it was answered in substance as follows,
viz.

The answer.

' Sir, I rise up to offer you my sentiments upon
 ' the motion which the honourable gentleman has
 ' now been pleased to make to you; but I must be-
 ' gin with declaring, that I never rose up to speak
 ' upon any affair in this house with a deeper con-
 ' cern, a greater reluctance, than I do upon the
 ' affair now before you. I shall most readily agree
 ' with the honourable gentleman, that it is a matter
 ' of the highest importance; it is indeed of the ut-
 ' most importance, but it is of so sad, of so melan-
 ' choly a concern, that I am sorry it ever should
 ' have been mentioned, or that any such motion
 ' should have been made in this house. I am sure
 ' the honourable gentleman does not view it in the
 ' same light I do; if he did, I am convinced he
 ' would have been the last to have mentioned it, or
 ' to have advised its being mentioned in either house
 ' of

of Parliament; and therefore when he considers it seriously, I hope he will withdraw the motion he has made; for if he should insist upon it, he must necessarily bring every gentleman of this house under one of the greatest difficulties any man ever was, or even can be in. It is an affair of property, it is a question by which the legal property of the crown itself is to be determined; and in such a case, must not every gentleman be under the greatest difficulty how to give his vote or his opinion? By declaring in favour of the motion, he must seem to injure the royal father his Sovereign; by declaring against it, he may seem to injure the royal son, and apparent heir to the crown. As I have the honour to know particularly the wisdom and the virtue of both the royal persons concerned, I can give my opinion with the more freedom; because I am sure neither of them will think himself injured by a gentleman's giving his opinion or his vote freely in Parliament; and I am sure his royal highness the Prince of *Wales* has so much wisdom, and so true a sense of filial duty, that he will never look upon any thing as a favour done to him, if it has the least tendency towards offering an indignity to his royal father.

That there is no affair of an importance too high for the consideration of Parliament, I shall admit; but, Sir, there are many affairs of a nature so delicate, that neither wisdom nor good policy will allow of the Parliament's taking them into their consideration; and if ever there was an affair in which the Parliament ought to avoid giving judgment, the affair now before you is one. From our passing judgment in such an affair, every man without doors will imagine there is a private mistake or dispute between his Majesty and his royal highness; and such an opinion, if it should generally prevail, may be of the most dangerous

‘ consequence to both: We should therefore, if
‘ possible, avoid giving any judgment in this affair;
‘ but as for complying with the motion, if it were
‘ in our inclination, I do not think it is in our pow-
‘ er: It would be a violation of property, a taking
‘ from the King a part of that property which is
‘ already established in him by act of Parliament,
‘ and to which he has as good a right as any private
‘ man in the kingdom has to any private property
‘ he does or can possess; for though the Parliament
‘ has a power to appropriate money to particular
‘ uses at the time it is granted, yet afterwards they
‘ have no such power; and it has always been a
‘ rule of this house, not to enter into any considera-
‘ tion about money once granted to the crown, with-
‘ out first having the consent of the crown. The
‘ civil list revenue has already been granted to his
‘ Majesty; when we made that grant, we might
‘ have ordered the application of it to particular
‘ uses, and might have gone so far as to have ap-
‘ propriated a particular sum to each respective use;
‘ such a particular appropriation might perhaps, and
‘ I think with reason too, have been thought dero-
‘ gatory to the honour of the crown; but I shall not
‘ now controvert that point; no such particular ap-
‘ propriation was then made; and as it was not made
‘ at the time that revenue was granted, we have now
‘ no power to make any such particular appropri-
‘ tion, with respect to any part of it, or with respect
‘ to any use to which any part of it ought to be ap-
‘ plied; and much less have we now a right or a
‘ power to prescribe to his Majesty what part of the
‘ civil list revenue ought to be applied towards main-
‘ taining the honour and dignity of his eldest son, or
‘ in what manner that application ought to be made:
‘ However, this will best appear from considering
‘ the several arguments made use of in favour of the
‘ motion, which I shall take upon me to do in as
‘ brief a manner as I can.

‘ As

‘ As for the maxim so much insisted on, That
‘ the Prince of *Wales* ought always to have a sepa-
‘ rate and distinct provision, and settled upon him
‘ in such a manner as to be quite independent of the
‘ King his father ; I never heard we had such a maxim
‘ in our constitution, nor can I see how it is possible
‘ to make a son altogether independent of his father,
‘ and much less to make a subject altogether inde-
‘ pendent of his Sovereign. The latter would, I am
‘ sure, be a very great solecism in politics, and the
‘ former, whatever may be the case with respect to
‘ royal families, has, I am certain, often produced
‘ great misfortunes in private. ’Tis true, the custom
‘ has generally been for our Kings to settle some
‘ estate by patent or charter upon their eldest sons,
‘ and those charters have often been confirmed by
‘ act of Parliament ; but I cannot see a good reason
‘ for saying, that the making of such a settlement is
‘ absolutely necessary, or that the heir apparent of
‘ the crown cannot be educated, or cannot live in a
‘ proper manner without it ; for that dependency
‘ which the son of a great family naturally has upon
‘ his father, can no way tend towards the debasing
‘ of his mind ; and the dignity and grandeur even
‘ of a prince of *Wales* may be as well supported by
‘ a yearly allowance, as by a perpetual and inde-
‘ pendent settlement. For this reason there never
‘ was any regulation expressly established in this
‘ kingdom for providing an independent settlement
‘ for the Prince of *Wales* ; but on the contrary, the
‘ making of such a provision, and the manner of
‘ settling that provision, has always been left intire-
‘ ly to the King upon the throne ; nor has the Par-
‘ liament ever, or but very seldom, intermeddled in
‘ that affair, unless when applied to by the King, or
‘ by some persons under his direction, and that ap-
‘ plication has generally proceeded from some other
‘ reason besides that of making a settlement upon the
‘ Prince of *Wales*.

‘ It is not so much as pretended, Sir, that any of
‘ those grants made by King *Henry III.* to his son
‘ *Edward*, proceeded from the interposition of Par-
‘ liament : On the contrary, it is evident, they pro-
‘ ceeded intirely from the politics of the court at that
‘ time, and those politics were not founded upon the
‘ maxim of making the Prince independent, but up-
‘ on a design of gaining the affections of the people
‘ in those countries which have been but lately subdu-
‘ ed, it having been thought more honourable for
‘ them to be governed by the King’s eldest son than
‘ by any other subject. In like manner we know,
‘ that none of the grants made by *Edward III.* to his
‘ son *Edward the black Prince*, proceeded from any
‘ address or application from Parliament ; for tho’
‘ they were most of them confirmed by Parliament,
‘ yet it appears that all those confirmations were ob-
‘ tained and passed at the desire of the King him-
‘ self ; and here likewise it may be said, and I be-
‘ lieve with justice too, that the erecting of *Cornwall*
‘ into a dutchy, and settling it upon the eldest son of
‘ every future King, as also the erecting of *Guienne*
‘ and *Gascony* into a principality, and granting it to
‘ the Prince of *Wales*, proceeded rather from a de-
‘ sign of doing honour to those countries, than from
‘ any design of making the Prince absolutely inde-
‘ pendent of his father ; for we find it was a com-
‘ mon practice in former days, to erect a county or
‘ province into a dutchy or principality, by way of
‘ doing honour to the country, and in recompence
‘ for some good services performed by the inhabit-
‘ ants : Thus we find the county of *Chester* was
‘ erected into a principality by *Richard II.* because
‘ the militia of that county had countenanced and
‘ enforced his most arbitrary measures during his fa-
‘ mous Parliament at *Shrewsbury* ; and every one
‘ knows, that it has always been reckoned an ho-
‘ nour to any city or province to adopt it as a title
‘ for any of the Princes of the royal family ; there-
‘ fore

fore we are not to conclude, that the grants made to former Princes of *Wales* are a sufficient authority for establishing it as a maxim, that every Prince of *Wales* ought to have a separate and independent provision settled upon him.

Now, Sir, with regard to those cases mentioned, where the Parliament has actually interposed. In the case of Prince *Richard*, eldest son of *Edward the black Prince*, it is very probable that application from Parliament was procured by the King himself, in order to disappoint any hopes the Duke of *Lancaster*, his second son, might have of succeeding to the throne; but suppose it was not procured by the King himself, as there was then some jealousy in the nation, that the Duke of *Lancaster* would endeavour to usurp the crown after his father's decease, who was then very old, the Parliament had great reason to address for having the eldest son of the deceased Prince of *Wales* created Prince of *Wales* in the room of his father, in order to avoid all disputes about the succession to the crown; which is a reason cannot be said now to subsist, and is a reason very different from that of having an independent provision settled upon the Prince of *Wales*. As for the application from Parliament, for having Prince *Henry*, eldest son of *Henry IV.* created Prince of *Wales*, Duke of *Cornwall*, and Earl of *Chester*, it plainly appears to have proceeded from the King's particular favorites in Parliament, therefore we must suppose it was with the approbation, or rather procurement of the King himself; and his reason for procuring such an application was very far from being founded upon any maxim or design of settling an independent provision upon the Prince his eldest son; but as his own title to the crown was a little doubtful, it is evident he procured that application from Parliament with a design to have his son declared his lawful successor, and only rightful heir to the crown.

‘ crown. Then as to what was done in the reign of
‘ of *Henry VI.* I hope none of the transactions of
‘ that unfortunate reign will be insisted on as good
‘ precedents for any thing that ought to be done in
‘ this ; for that whole reign was a continued series of
‘ weak and destructive measures on the part of the
‘ court, and very unjustifiable incroachments on the
‘ part of the Parliament.

‘ Thus, Sir, none of the precedents mentioned
‘ relating to the heir apparent of the crown, can be
‘ any way taken as a good precedent for our agree-
‘ ing to the motion now before us ; and of the two
‘ precedents mentioned, relating to the presumptive
‘ heirs of the crown, that relating to the late King
‘ *James*, when Duke of *York*, can have nothing to
‘ do in the present question ; for the making of a
‘ settlement upon him was so far from proceeding
‘ from any address, or other application from the
‘ Parliament to the King, that it proceeded rather
‘ from the King’s applying to his Parliament for
‘ that purpose ; and the Parliament’s having any
‘ thing at all to do in that affair proceeded from ne-
‘ cessity, not choice ; because the revenue of the
‘ *Post-office* and *Wine-licence-office* could not be set-
‘ tled upon the Duke of *York* but by authority of
‘ Parliament. And as for that relating to the late
‘ Queen *Anne*, when Princess of *Denmark*, it ap-
‘ pears probable, indeed, that That affair was first
‘ brought into Parliament, not only without the ap-
‘ probation, but contrary to the inclination of the
‘ court at that time ; but what was the consequence ?
‘ It occasioned an unseasonable prorogation of that
‘ session, by which the affairs of the nation were ve-
‘ ry much embarrassed ; and if such were to be the
‘ consequence of our agreeing to this motion, I am
‘ convinced the honourable gentleman that made it
‘ would not so much as desire any gentleman to
‘ agree to it. Nay, even that very Parliament could
‘ never come to any fixed resolution in that affair,
‘ till

‘ till they had obtained the King’s approbation of
‘ what they were about to do, and then they unani-
‘ mously agreed to address His Majesty to make a
‘ provision for the Prince and Princess of *Denmark*
‘ of 50,000 *l.* a year ; so that even that affair can be
‘ no precedent for our agreeing to this motion, till
‘ it be some way or other signified to us, that his
‘ Majesty approves of what we are about to do.

‘ From these observations, I think, Sir, it will
‘ appear, that the precedents which have been men-
‘ tioned, are either such as ought not to be followed,
‘ or such as are no way applicable to the case now
‘ before us ; therefore it cannot be said that the mo-
‘ tion is founded upon any proper precedent ; and
‘ whatever the wisdom and policy of our Kings
‘ may have been with respect to the settling of an
‘ independent provision upon the heir apparent to
‘ the crown, it seems it has always been the wisdom
‘ and policy of the nation, to leave that affair intirely
‘ to the option of the King upon the throne, and
‘ never to intermeddle but when it has appeared, or
‘ has even been signified to the Parliament, that
‘ their intermeddling would be agreeable to both the
‘ parties concerned. This, Sir, is true wisdom, this
‘ is right policy. Even in private life, it is gene-
‘ rally held to be officious and imprudent for a
‘ stranger to intermeddle in the family affairs of his
‘ neighbour, without any call from the parties con-
‘ cerned ; if there was no breach before, it generally
‘ occasions one, and if there was a breach, it makes
‘ the breach wider much more often than it occasions
‘ a reconciliation. The Parliament has a right, the
‘ Parliament is often in duty bound to offer advice
‘ to their Sovereign ; but in determining when, or
‘ upon what occasions, we may, or can offer our
‘ advice, we ought to consider our Sovereign in a
‘ twofold respect : We ought to consider him in his
‘ political and royal capacity, and in his natural and
‘ peternal capacity. In all cases which regard his

‘ political and royal capacity, we have certainly a
‘ right to judge of the measures that are taken, and
‘ may recommend what we think most expedient ;
‘ but in affairs which regard only his natural and
‘ paternal capacity, we have no right to judge, it
‘ would be officious in us to recommend, without
‘ some sort of application from him for that pur-
‘ pose ; and as the providing for every branch of
‘ the royal family, is an affair which regards only
‘ his natural and paternal capacity, it would be offi-
‘ cious in us, it is inconsistent with true wisdom or
‘ good policy for us, to pretend to judge, or to pre-
‘ scribe what ought to be done, or in what manner
‘ it ought to be done.

‘ That the Prince of *Wales* ought to be supported,
‘ that he ought to be honourably supported, I shall
‘ most readily grant ; and I shall likewise grant that
‘ the support of the Prince of *Wales* is, and ought
‘ to be a charge upon the civil list revenue ; but,
‘ Sir, that he has either a legal or an equitable right
‘ to any particular share of that revenue, or to any
‘ share but such as the King his father pleases to
‘ allow him, is what I cannot so easily admit. I
‘ have perused all the acts of Parliament that were
‘ ever made, relating to that revenue, I have par-
‘ ticularly considered that act, by which the civil list
‘ revenue was settled upon his present Majesty, and
‘ neither in that act, nor in any of the other, can I
‘ find any words for giving the Prince of *Wales* a
‘ legal right to any other share than what his Ma-
‘ jesty shall please to allow him, nor can I find any
‘ words from which a right to any other share can
‘ be equitably inferred. To me it seems, his Ma-
‘ jesty has as absolute a right to the whole civil list
‘ revenue, during his life, as any gentleman in *Eng-
‘ land* can have to his own estate. The eldest son
‘ of every landed gentleman in *England* ought to
‘ be supported out of his father’s estate, and that
‘ support ought to be according to the character and
‘ circum-

‘ circumstances of the family ; yet I hope it will not
‘ be said that the eldest son has any legal or equi-
‘ table right to any particular share of his father’s
‘ estate, or to any share but such as his father pleases
‘ to allow him, unless that right be established by
‘ some conveyance made to the father, or by some
‘ settlement before made and agreed to by the fa-
‘ ther.

‘ In all cases of equity, to be sure, Sir, the intention
‘ of an act of Parliament is to be chiefly regarded ;
‘ but that intention must some way or other appear
‘ from the words. We are not to take the inten-
‘ tion of a law from the intention this or that gen-
‘ tleman really had, or may say he had, when he
‘ agreed to the passing of that law. When a law
‘ is to be passed, and under the consideration of Par-
‘ liament, every gentleman may have his own inten-
‘ tion, his own reasons for agreeing to it, and some
‘ may have reasons quite contrary to those of others.
‘ One gentleman may have an intention that it
‘ should be interpreted in one way, another may in-
‘ tend that it should be interpreted in a quite diffe-
‘ rent ; but when that law is passed, and comes af-
‘ terwards to be applied to any particular case, nei-
‘ ther the reasons nor the intentions of those that
‘ passed it, are to be regarded : There is nothing to
‘ be regarded but the context and the words of the
‘ law, in order to put upon them the most equita-
‘ ble construction they will bear ; and to put such a
‘ construction upon any of those general words in
‘ the act for establishing the civil list revenue, by
‘ which that revenue is appropriated to the support
‘ of his Majesty’s household, as would take from his
‘ Majesty the power of judging what was fit to be
‘ done in his own family, would, I am sure, be a
‘ very unnatural construction, and consequently, I
‘ must think, a very unequitable one. It is a con-
‘ struction the words themselves will no way ad-
‘ mit

‘ mit of, it is an intention I am convinced no gentleman could have when he agreed to them.

‘ I hope, Sir, from what I have said it will appear, that there is no absolute necessity, either from the nature of the thing, or from any maxim in our constitution, that a certain, perpetual and independent provision should be settled upon the Prince of *Wales*; that, if there were, it would be very improper for the Parliament to intermeddle in the affair; and that his Majesty is the sole and only judge, whether such a settlement ought to be made or not. Therefore we must conclude, that his Majesty is the sole and only judge, when that settlement ought to be made. But to take away all farther dispute upon either of these heads, I must acquaint you, That I am commanded by his Majesty to acquaint this house, that his Majesty yesterday sent a message to his Royal Highness the Prince of *Wales* by the Lord Chancellor, Lord President, Lord Steward, Lord Chamberlain, Duke of *Richmond*, Duke of *Argyle*, Duke of *Newcastle*, Earl of *Pembroke*, Earl of *Scarborough*, and Lord *Harrington*; which message, so sent by those Lords, being in writing, I shall now, Sir, deliver to you.

This message was as follows, *viz.*

The King's
Message to
the Prince of
Wales.

“ His Majesty has commanded us to acquaint
“ your Royal Highness, in his name, That, upon
“ your Royal Highness's marriage, he immediately
“ took into his royal consideration, the settling a
“ proper jointure upon the Princess of *Wales*; but
“ his sudden going abroad, and his late indisposition
“ since his return, had hitherto retarded the execution of these his gracious intentions; from which
“ short delay his Majesty did not apprehend any
“ inconveniencies could arise, especially since no
“ application had, in any manner, been made to
“ him

“ him upon this subject by your Royal Highness ;
 “ and that his Majesty hath now given orders for
 “ settling a jointure upon the Princess of *Wales*, as
 “ far as he is enabled by law, suitable to her high
 “ rank and dignity ; which he will, in proper time,
 “ lay before his Parliament, in order to be rendered
 “ certain and effectual, for the benefit of her Royal
 “ Highness.

“ The King has farther commanded us to ac-
 “ quaint your Royal Highness that, although your
 “ Royal Highness has not thought fit, by any ap-
 “ plication to his Majesty, to desire, that your al-
 “ lowance of 50,000 *l. per annum*, which is now
 “ paid by monthly payments, at the choice of your
 “ Royal Highness, preferably to quarterly payments,
 “ might, by his Majesty’s farther grace and favour,
 “ be rendered less precarious, his Majesty, to pre-
 “ vent the bad consequences, which, he apprehends,
 “ may follow from the undutiful measures, which,
 “ his Majesty is informed, your Royal Highness
 “ has been advised to pursue, will grant to your
 “ Royal Highness for his Majesty’s life, the said
 “ 50,000 *l. per annum*, to be issuing out of his Ma-
 “ jesty’s civil list revenues, over and above your
 “ Royal Highness’s revenues arising from the Duchy
 “ of *Cornwall* ; which his Majesty thinks a very
 “ competent allowance, considering his numerous
 “ issue, and the great expences, which do, and must
 “ necessarily attend an honourable provision for his
 “ whole royal family.”

‘ And that to this message, his Royal Highness the
 ‘ Prince returned a verbal answer, which, according
 ‘ to the best recollection and remembrance of the
 ‘ Lords, was in substance as follows, *viz.*

“ That his Royal Highness desired the Lords to
 “ lay him, with all humility, at his Majesty’s feet ;
 “ and to assure his Majesty, that he had, and ever
 “ should

The Prince
 of *Wales*’s
 Answer.

“ should retain the utmost duty for his royal person ;
“ that his Royal Highness was very thankful for
“ any instance of His Majesty’s goodness to him, or
“ the Princess, and particularly for His Majesty’s
“ gracious intention of settling a jointure upon her
“ Royal Highness ; but that, as to the message, the
“ affair was now out of his hands, and therefore he
“ could give no answer to it.

“ After which, his Royal Highness used many
“ dutiful expressions towards his Majesty, and then
“ added, “ *Indeed, my Lords, it is in other hands ;*
“ *I am sorry for it.* Or to that effect.

“ His Royal Highness concluded with earnestly
“ desiring the Lords, to represent his answer to his
“ Majesty in the most respectful and dutiful man-
“ ner.

“ From this most gracious message it appears, Sir,
“ that his Majesty has for some time given a yearly
“ allowance to his Royal Highness, and such an
“ allowance, as his Majesty thought a very competent
“ allowance, considering his numerous issue, and the
“ great expences, which do, and must necessarily at-
“ tend an honourable provision for his whole royal fa-
“ mily ; and it appears farther, that this allowance has
“ been regularly paid in that manner which his Royal
“ Highness himself chose as the most proper and
“ convenient for him ; therefore it cannot be said
“ that the making of such an allowance has been in
“ the least delayed ; and if the converting of that
“ allowance into a perpetual and independent settle-
“ ment had been absolutely necessary, or were now
“ absolutely necessary, it cannot be said that there
“ has been any such delay, as can give occasion for
“ the interposition of Parliament ; because, if his
“ Royal Highness had not before his marriage been
“ satisfied with the manner in which his allowance
“ was made to him, or had but signified that he
“ thought it was established upon too precarious a
“ foundation,

foundation, His Majesty would have established it in any manner he desired ; and considering how soon His Majesty went abroad after the happy marriage of his Royal Highness, it cannot be pretended that the least unnecessary delay has since that time been made, with respect to the making of a settlement upon his Royal Highness, even in that manner which is said to be absolutely necessary by the maxims and custom of the kingdom. But supposing that the making of that settlement had been unnecessarily delayed, whatever delay or neglect may have happened in that respect, is now made up by His Majesty's message to his Royal Highness ; and the communicating of that message to this house, which I have now done by his Majesty's command, must be a full answer to every thing that can be said, with respect to time at least, in favour of the motion now before us. Nay, from his Royal Highness's answer, to his Majesty's message, it seems reasonable to believe, that his Royal Highness is himself satisfied with what His Majesty offers, and that he would be sorry to hear of our having agreed to the motion now made to us ; for what other meaning can be put upon his Royal Highness's saying, *That he was sorry for the affair's being then in other hands ?*

For this reason, Sir, I must think the debate will now be brought within a very narrow compass ; for if the motion should now be insisted on, it can proceed from nothing but gentlemen's taking upon them to differ in opinion from his Majesty, and to think that 50,000 *l.* a year out of the civil list, besides his Royal Highness's revenues arising from the Dutchy of *Cornwal*, is not a competent allowance, considering His Majesty's numerous issue, and the great expences, which do, and must necessarily attend an honourable provision for his whole royal family. As this has been

already

‘ already insisted on, as it has been said that
‘ 100,000 *l.* a year is the least his Royal Highness
‘ ought to have out of the civil list, besides the re-
‘ venues of the principality of *Wales* and Dutchy of
‘ *Cornwal*, and that it was the least the Parliament
‘ that established the present civil list intended he
‘ should have, I must beg leave to answer in as few
‘ words as possible to what has been said upon that
‘ head, and to give my reasons for being of the
‘ same opinion with his Majesty.

‘ By what I have said, or am to say upon this
‘ head, I would not have it understood, Sir, as if I
‘ believed his Royal Highness the Prince of *Wales*
‘ ought not to have more than 50,000 *l.* a year :
‘ On the contrary, I think he ought to have a great
‘ deal more than double that sum, if it were possible
‘ for his Majesty to spare so much from the civil
‘ list revenue, or if the nation were so happy as to
‘ be in a condition to increase the civil list, so as to
‘ enable his Majesty to make such an allowance to
‘ his Royal Highness as he deserves, and as his Ma-
‘ jesty would incline to give him. Were we to
‘ measure his allowance by his merit, as we know
‘ no bounds to the latter, we could prescribe no
‘ bounds to the former : The only course we could
‘ take would be, to offer whatever he pleased to de-
‘ mand ; and even in that case we would have rea-
‘ son to fear lest his modesty might do an injury to
‘ his generosity, by making him confine his de-
‘ mand within the strictest bounds of necessity. I
‘ am not therefore to examine what his Royal High-
‘ ness ought to have, I am only to endeavour to
‘ shew that we have no right to prescribe to his Ma-
‘ jesty, what he ought to give ; that it could not
‘ be the intention of that Parliament which esta-
‘ blished the present civil list, to grant 100,000 *l.* a
‘ year, or any other certain yearly sum out of the
‘ civil list revenue to his Royal Highness ; and that
‘ his

his Majesty cannot at present conveniently spare more than 50,000 *l.* a year out of that revenue.

To say, Sir, that the Parliament has a right to prescribe to his Majesty, what provision he shall make out of his own estate for any one of his children, has something in it at first view so very extraordinary, that I am surprized, to hear it insisted on. Such a right would put the King in a much worse state than any one of his subjects; and I must desire gentlemen would consider, what a foreigner would think of this nation, if he should be told, we intrust the King with the government of the whole kingdom, but we will not intrust him with the government of his own family. I do not know that there is in all our histories or records any one precedent or foundation for such a parliamentary claim, but that single one in the reign of *Henry VI.* and that was, we know, so weak a reign, that it became necessary for the Parliament to assume several rights and privileges which they were not properly, and by the nature of our constitution, intitled to. As for what the Parliament did in relation to the Princess *Anne of Denmark*, it can no way be made use of in the present case; that affair was first brought into Parliament when they were considering how much it would be necessary to allow for the support of our civil government, and then it became very proper to take into their consideration what particular sum was to be allowed for the support of the Prince and Princess of *Denmark*; for though they were of the royal family, they were not of the King's own family; and therefore the appropriating of a certain particular sum for their support, or the addressing to have a certain sum appropriated for that purpose, could not be called an intermeddling in the King's domestic affairs.

Besides, Sir, it is not so natural for any man to provide honourably for his presumptive heir, as
for

‘ for any one of his own children: The presumptive
‘ heir is sometimes looked on even with jealousy
‘ and envy; and therefore, there is a very strong
‘ reason for the Parliament’s interfering more parti-
‘ cularly in one case, than common decency can
‘ admit of in the other.

‘ But, suppose, Sir, the Parliament had a right
‘ to prescribe to His Majesty, what provision he shall
‘ make out of his own estate for any, or for every
‘ one of his children, how is it possible for us to
‘ exercise that right in our present situation? Before
‘ we can, with any countenance, pretend to exer-
‘ cise such a right, we ought to examine narrowly
‘ into the produce of the civil list revenue, and the
‘ several uses to which it must necessarily be applied,
‘ in order to see how much his Majesty can conve-
‘ niently spare out of that revenue: We ought like-
‘ wise to examine particularly into the establishment
‘ of his Royal Highness’s household, and all the ex-
‘ pences he must necessarily be put to for supporting
‘ the dignity and grandeur in which the heir appa-
‘ rent to the crown of *Great Britain* ought to live;
‘ in order that we may determine what particular
‘ sum His Majesty shall allow him annually out of
‘ the civil list revenue. Is it possible for us in our
‘ present situation to examine into either of these par-
‘ ticulars? We have at present no account rela-
‘ ting to the civil list, nor any account relating
‘ to his Royal Highness’s household before us, and
‘ without a multitude of such accounts it is not
‘ possible for us to go through with any such exa-
‘ mination.

‘ Now, Sir, with regard to the intention of that
‘ Parliament by whom the present civil list was e-
‘ stablished; if we consider the circumstances of the
‘ royal family at that time, and the circumstances of
‘ the royal family when the civil list was established
‘ in the former reign, we shall very easily find a
‘ meaning for the experience of past times, very
‘ different

‘ different from what is now put upon these words.
‘ When the civil list revenue was established upon
‘ his late Majesty, a very narrow scrutiny was made
‘ into the whole articles of the expence of our civil
‘ government, and particularly into the expence ne-
‘ cessary for supporting the dignity and grandeur
‘ of the Prince of *Wales*; from which scrutiny it
‘ was computed that 600,000*l.* a year at least
‘ would be necessary for supporting the King’s hous-
‘ hold and civil government; but let us consider
‘ that the King had then no Queen, nor any children
‘ to provide for: From the same scrutiny it was
‘ computed that 100,000*l.* a year out of the civil
‘ list revenue was the least sum that would be neces-
‘ sary for supporting the dignity and grandeur of the
‘ prince of *Wales*; but let us remember that the
‘ Prince of *Wales* had then a Princess of *Wales*, and,
‘ to our happiness, several children to provide for.
‘ During that reign it had been found that 100,000*l.*
‘ a year was sufficient for supporting the Prince and
‘ Princess of *Wales* and all their children; but it
‘ had likewise been found that it required 700,000*l.*
‘ a year to support the King’s household and civil go-
‘ vernment, though he had no Queen nor any chil-
‘ dren to provide for.

‘ This, Sir, was the experience of past times which
‘ gave occasion to the increasing of his present Ma-
‘ jesty’s civil list revenue to 800,000*l.* a year; but
‘ if we consider the circumstances of the royal fa-
‘ mily at the time of His Majesty’s accession, we must
‘ see that the Parliament from this very experience
‘ could not but conclude, that it would require more
‘ than 700,000*l.* a year to support his present Ma-
‘ jesty’s household and civil government; because he
‘ had a Queen and several younger children to provide
‘ for, which the late King had not; and from the same
‘ experience they must likewise have concluded,
‘ that it would not require 100,000*l.* a year to sup-

‘ port the Prince of *Wales*, because he had then nei-
‘ ther a Princess, nor any children to provide for;
‘ for if they had concluded that 100,000*l.* a year
‘ would be necessary for supporting the Prince of
‘ *Wales* singly, they must from the experience of
‘ past times have granted more than 700,000*l.* a
‘ year for supporting the present King’s household
‘ and civil government, considering that he had a
‘ Queen and several younger children to provide
‘ for, which the late King had not; and since they
‘ granted for the support of the present King’s hous-
‘ hold and civil government, but exactly the same
‘ sum that had been found from the experience of
‘ past times to be necessary, and had been actually
‘ given for the support of the late King’s household
‘ and civil government, it is apparent to me they
‘ concluded his Majesty might save and deduct as
‘ much from the allowance to be made to the Prince
‘ of *Wales*, as would be sufficient for providing for
‘ her present Majesty the Queen, and all their other
‘ children. From all which it is to me evident, that
‘ the Parliament that established the present civil
‘ list, did not intend his royal highness should have
‘ out of it a full 100,000*l.* a year. They intended only
‘ what was right they should intend, and what on-
‘ ly in due deference to their sovereign they could
‘ intend, which was, that his Majesty should al-
‘ low the Prince of *Wales*, what he, in his great
‘ wisdom, might think a competent allowance for
‘ supporting the honour and dignity of the heir ap-
‘ parent to the crown, considering his Majesty’s nu-
‘ merous issue, and the great expences which would
‘ necessarily attend an honourable provision for his
‘ whole royal family.

‘ I think, Sir, I have now clearly shewn what
‘ His Majesty meant by, and what the Parliament
‘ could only intend from the experience of past
‘ times; and if we now proceed upon the same
‘ foundation, we must conclude, that 50,000*l.* a
‘ year

‘ year is the most His Majesty can spare, out of the
‘ civil list, for the support of his royal highness. His
‘ Majesty allows 8000*l.* a year for the support of
‘ his royal highness the Duke of *Cumberland*, 5000*l.*
‘ a year to her royal highness the Prince of O-
‘ range, 5,300*l.* a year to the two eldest Princess-
‘ ses, and 2000*l.* a year for the two youngest; all
‘ which are extraordinary expences unknown in the
‘ late reign: To these if we add the 50,000*l.* a
‘ year for the support of Her Majesty, which was
‘ likewise unknown in the late reign, and a propor-
‘ tionable additional allowance for bed and board,
‘ and other extraordinary expences in the several pa-
‘ laces, we must conclude that His Majesty must ne-
‘ cessarily be at 100,000*l.* a year expence more than
‘ was found, or could be necessary in the late reign,
‘ which will make the whole expence of His Maje-
‘ sty’s household, and civil government, without
‘ including the allowance to the Prince of *Wales*,
‘ amount, according to the experience of past times,
‘ to at least 800,000*l.* a year; so that every shil-
‘ ling His Majesty allows for the support of the
‘ Prince of *Wales*, must arise from frugality and
‘ good management, and from contracting, and sa-
‘ ving a part of that expence which was found
‘ necessary in the late reign. Therefore, so far from
‘ concluding or imagining that His Majesty may
‘ spare more than 50,000*l.* a year for his royal
‘ highness, we have reason to be surprized how he
‘ can spare so much.

‘ But this, Sir, will appear still more evident by
‘ an example in private life. Suppose two country
‘ gentlemen, each of 8000*l.* a year estate in land:
‘ Suppose their rents equally good, and equally well
‘ paid, and that their lands are equally taxed; and
‘ suppose that one of these gentlemen has but one
‘ only son, but that the other has five or six chil-
‘ dren; can we suppose the latter able to settle up-
‘ on his eldest son as large a part of his estate as

‘ the former may spare to settle upon his only son?
‘ Surely, Sir, no man in reason can suppose any
‘ such thing; the latter has his younger children not
‘ only to maintain, but to provide for, and there-
‘ fore neither he nor his eldest son can live in such
‘ grandeur, as the former and his only son may do.
‘ This is the very case before us: His present Ma-
‘ jesty has but 800,000*l.* a year estate, the late
‘ King had the same, if we add to his late Majesty’s
‘ settled revenue, the several additional grants that
‘ were occasionally made to the civil list in his reign.
‘ His late Majesty had but one only son, his pre-
‘ sent Majesty, to our comfort and happiness, has
‘ several children; and therefore it is not to be sup-
‘ posed that the present King, or the present Prince
‘ of *Wales*, can live in such grandeur, as the late
‘ King, and the present while Prince of *Wales*,
‘ were able to do, unless the Parliament should
‘ think fit to increase the estate of the crown by a
‘ new additional grant to the civil list revenue.

‘ I shall take no notice, Sir, of the insinuations
‘ that were made against the management of the
‘ civil list revenue in the late reign, or the method
‘ of settling it in this. I do not think they any way
‘ relate to the present debate. The management in
‘ the late reign might, if necessary, be easily ac-
‘ counted for; and the method of settling the civil
‘ list revenue in this reign, hardly deserves the
‘ name of an improvement. But now, after hav-
‘ ing shewn that we have not properly any right to
‘ present such an address as is proposed; that we
‘ ought not, either in wisdom, or policy, or even
‘ common decency, to present such an address, I
‘ must beg, I must intreat of gentlemen to consider
‘ what they are about. Gentlemen may call it, if
‘ they please, offering our advice to our Sovereign;
‘ but it is really bringing his Majesty and his eldest
‘ son as plaintiff and defendant before us. In this
‘ light

‘ light it will be looked on by every man without
‘ doors. It is stating our selves as the higher pow-
‘ er, and bringing his royal Highness to sue for ju-
‘ stice before us. Our agreeing to the question,
‘ would be determining that His Majesty had done
‘ injustice to his eldest son: It would be giving a
‘ victory to the son over the father, which might
‘ prove, the Lord have mercy on us! the destruc-
‘ tion of both. No man can patiently bear an inqui-
‘ ry into his family affairs; no father can easily for-
‘ give a son for appealing to a higher power: For
‘ God sake, let us stop in time this gaping breach,
‘ which may make way for an inundation to drown
‘ us all! Our agreeing to such a question might oc-
‘ casion a perpetual breach, an *immedicabile vulnus*,
‘ though not, I hope, *ense recidendum*. I hope the
‘ wisdom of this house will timeously prevent any
‘ amputation.

‘ The question now before us, Sir, is of a most
‘ dangerous nature, it may be the occasion of such fa-
‘ tal consequences to the royal family, and to the
‘ whole kingdom, that I must think, the original
‘ authors and contrivers of it can be no friends to
‘ either. I am far from suspecting any gentleman
‘ of this house, or any member of either house of
‘ Parliament. It is not possible for me to suppose
‘ that either of them could have been the original
‘ author or contriver of such a question; and I am
‘ sure no gentleman of either house would have at-
‘ tempted to have brought such a question into Parli-
‘ ament, if he had viewed it in the same light as I
‘ do. We may remember, Sir, the fatal division
‘ that happened between his late Majesty, and his
‘ present Majesty when Prince of *Wales*: We
‘ may remember to what a height that fatal divi-
‘ sion was carried. The Prince of *Wales*, the eldest,
‘ the only son of the King, and heir apparent to the
‘ crown, was turned out of the royal palace, was

‘ excluded from every one of the royal palaces, and
‘ was obliged to live like a private nobleman, in a pri-
‘ vate house, and without any guards, or other ensigns
‘ of royalty. Nay, his very servants were tempted
‘ and hired to forsake him, and were even threaten-
‘ ed and bullied if they refused ; yet it cannot be said
‘ that the son was ever guilty of any undutiful beha-
‘ viour, or that the father was deficient in natural
‘ affection. To what then could this terrible divi-
‘ sion be owing? It could be owing to nothing but
‘ little malicious slanderers and tale-bearers, who, for
‘ their own private ends, stirred up a division in the
‘ royal family: But it is well known, they were all
‘ foreigners who were the original authors of it: We
‘ know there was not a *British* subject had the least
‘ hand in it. However, be they who they will,
‘ it is certain they could be no real friends, either
‘ to the father or the son, or to any of the royal
‘ family.

‘ I am surprized, Sir, to hear it now so much in-
‘ sisted on, that the heir apparent, or presumptive
‘ of the crown, has a right to have a distinct and in-
‘ dependent provision settled upon him. I remem-
‘ ber a time when this doctrine was far from being
‘ admitted as one of the maxims of our constitution.
‘ I remember a time when the present royal family,
‘ who were then the presumptive heirs to the crown
‘ by act of Parliament, were so far from being al-
‘ lowed a distinct and independent settlement, that
‘ they had no allowance at all: Nay, even when
‘ the question was moved, the Parliament would
‘ not so much as give any of them leave to come
‘ and reside in the kingdom. The maxim now in-
‘ sisted on was therefore very far from being thought
‘ a maxim at that time ; and I should think it very
‘ strange, if those who were then so regardless of the
‘ presumptive heir of the crown, should now shew
‘ themselves so careful of the apparent heir, as to do
‘ an

‘ an injury to the King upon the throne, for the sake
‘ of providing a very large independent settlement
‘ for the apparent heir.

‘ I am likewise surprized, Sir, to hear the term
‘ *Emancipation* made use of in this debate. In this
‘ kingdom to talk of the son’s being emancipated by
‘ marriage out of the family of his father, is certain-
‘ ly not a proper and just way of speaking. In those
‘ countries where the term emancipation was first
‘ made use of, the son was in some manner the slave
‘ of his father. In those countries fathers had at first
‘ even a power of life and death over their children,
‘ and a right to every thing the son could acquire,
‘ either by his own industry, or by gift, or other-
‘ wise; nor was the son freed from this paternal
‘ power by marriage: The only way of freeing him
‘ was by a solemn act of the father, an edict of the
‘ Prince, or a decree of the magistrate; and the
‘ freeing of the son from the paternal power, by ei-
‘ ther of these ways, was called emancipation. But
‘ in this kingdom we can have no such term, because
‘ the father has not properly any power over his
‘ children; a son after he comes of age has no far-
‘ ther dependence upon his father, than what pro-
‘ ceeds from filial affection and duty, and this con-
‘ tinues after his marriage the same it was before; it
‘ is a dependence which never can, nor ever ought
‘ to be taken away: It is a dependence which, I am
‘ sure, no member of this house would endeavour to
‘ diminish; for whoever endeavours to diminish it,
‘ can have no true regard either for the son or the
‘ father.

‘ But, Sir, I must confess I am no way surprized
‘ to find, that those who were some time ago for in-
‘ croaching upon the King’s prerogative, with re-
‘ spect to the officers of his army, should now be for
‘ incroaching upon his paternal power with respect
‘ to the providing in whatever manner he may think

‘ most proper for his own children. I am persuaded
‘ neither of these attempts proceeded from any real
‘ disaffection to His Majesty or His illustrious family:
‘ I believe both proceeded from mistaken notions of
‘ liberty, or from an erroneous idea of our constitu-
‘ tion; but I hope those gentlemen will consider,
‘ that what they now propose is really in some man-
‘ ner, as I have said, accusing His Majesty of in-
‘ justice towards his eldest son. It will be so looked
‘ on by the whole nation. This will, of course,
‘ very much lessen the esteem the people have, and
‘ ought to have for His Majesty; and will certainly
‘ make many of them suppose he is no longer fit to
‘ rule over us. The consequences of such an opinion
‘ may be extremely fatal. * For my own part, if I
‘ were of a different nation, and should hear that
‘ such a question as this had been brought into the
‘ Parliament of *Great Britain*, and carried against
‘ the father, I should expect to hear, by the next
‘ post, that the same Parliament had deposed the
‘ father, and had set the crown upon the head of the
‘ son. This is a consequence which, I am sure, the
‘ son would be far from desiring to see, it is a conse-
‘ quence which I am convinced no gentleman in this
‘ house designs; but as it is a consequence which I
‘ think, sooner or later, might be justly apprehended
‘ from this question’s being carried in the affirmative,
‘ therefore I thought myself obliged to rise up and
‘ give my reasons for being against it; and now that
‘ I have done so, whatever may happen to be the
‘ fate of the question, I am sure I shall sleep this
‘ night much sounder in my bed, and with a safer
‘ conscience, than I could have done if I had given
‘ only a bare negative to a question, in which I think
‘ the happiness of my King, the happiness of the
‘ royal family, and the happiness of my country,
‘ so deeply concerned.

* The following words, to the end of the paragraph, were spoken in the
house of Peers.

‘ To conclude, Sir, as the honourable gentleman
‘ who moved you this question has told us, that se-
‘ veral arguments of great dignity and weight might
‘ be made use of against it, I have, and shall always
‘ have, so great a deference for that honourable
‘ gentleman’s opinion, that I shall, upon all occa-
‘ sions, be extremely cautious of giving my assent
‘ to any question against which he thinks any argu-
‘ ment of dignity and weight may be made use of.
‘ It is true, he endeavoured to evade those argu-
‘ ments, by making some sort of answer to each ;
‘ but those answers will, from what I have already
‘ said, appear, I think, to be very insufficient ; so
‘ that the arguments he made use of against his own
‘ motion, must now stand in their full force. In all
‘ questions, even where the prerogative is concerned,
‘ which relate to affairs of a public nature, the
‘ Parliament may interpose, but in those which re-
‘ late only to the royal family, the Parliament can
‘ have no concern : Even His Majesty’s ministers
‘ cannot properly or prudently intermeddle, unless
‘ specially called upon. As for the Parliament’s re-
‘ suming any grant, when the cause of granting
‘ ceases, it can have nothing to do in the present
‘ debate ; for there is no pretence for saying, that
‘ any one of the causes for granting the present civil
‘ list revenue has ceased. And as to the amount of
‘ the civil list revenue, and the manner in which it
‘ is established, or the uses for which it ought to be
‘ applied, I am surprized to hear any objections made
‘ to the former, or any attempt made for directing
‘ the latter ; since at the time of granting, as I am
‘ told, it was unanimously agreed to in one house,
‘ and with but one contradictory vote in the other ;
‘ and I do not hear that in either house there was
‘ the least mention made of the uses to which the
‘ whole or any part ought to be applied. In short,
‘ Sir, there was never any thing happened in Par-
‘ liament gave me so great a concern as the hearing
‘ of

‘ of this motion made. The very making of such
 ‘ a motion may be attended with cruel consequences ;
 ‘ but if it should be agreed to, after having used my
 ‘ utmost endeavours to prevent it, I shall pray to
 ‘ God to avert those judgments which may be brought
 ‘ upon the whole nation by our agreeing to such a
 ‘ motion. This I take to be my next indispensable
 ‘ duty ; but I hope the success of my endeavours
 ‘ will prevent such a melancholy occasion for my
 ‘ prayers.’

The reply was in substance as follows.

Reply.

‘ The importance of the present debate is, Sir,
 ‘ what I shall readily acknowledge ; it has been, I
 ‘ think, acknowledged by every gentleman, who
 ‘ has spoke upon either side of the question ; but
 ‘ some of the gentlemen who have spoke against the
 ‘ motion, have endeavoured to represent it in a light
 ‘ which, I am sure, it can no way bear ; a light
 ‘ which, I must say, can no way contribute to the
 ‘ honour or advantage of either of the two royal
 ‘ persons who seem to be concerned. To insinuate
 ‘ that either of them can conceive the least grudge
 ‘ from any thing that passes in Parliament, is really,
 ‘ in my opinion, to insinuate that they are ignorant,
 ‘ or not observant of the rights and privileges of
 ‘ Parliament. This, I believe, the honourable
 ‘ gentlemen were not sufficiently aware of, other-
 ‘ wise they would not have pretended that this mo-
 ‘ tion, or any motion in Parliament, could ever
 ‘ occasion any breach or dispute between his Majesty
 ‘ and his royal highness the Prince of *Wales*, or that
 ‘ it can lay any gentleman under the least difficulty
 ‘ how to behave. As my attachment to the present
 ‘ royal family is so well and so publickly known, I
 ‘ cannot, I think, be suspected of desiring or design-
 ‘ ing to foment or stir up any division between
 ‘ them : I hope every one who knows me will do
 ‘ me

‘ me the justice to think, I would do all in my
‘ power to prevent any such fatal division ; and for
‘ this very reason I am for agreeing to the motion
‘ now made to us ; because it will remove that which
‘ is often the cause of dissention in private families,
‘ and may be, even with respect to the royal fami-
‘ ly ; for when the son is obliged to apply to the
‘ father for every trifling sum he may have occasion
‘ for, it is a continual fund for dissention, and often
‘ begets a coolness both of the one side and the
‘ other.

‘ It is to be presumed, I hope, Sir, there will
‘ always be good reason for presuming, that the
‘ behaviour of every gentleman in this house, with
‘ respect to any motion he may make, or any opi-
‘ nion or vote he may give, is founded upon what
‘ he thinks right, upon what he takes to be his duty
‘ as a member of this house ; and to imagine that
‘ His Majesty, or his royal highness would be of-
‘ fended at any gentleman’s doing what he takes to
‘ be his duty in Parliament, is certainly a very
‘ wrong, and a most groundless imagination : But
‘ to suppose that either of them could conceive the
‘ least grudge against the other, on account of any
‘ motion or question in Parliament, is to suppose
‘ that the Parliament is directed in every thing they
‘ do, either by the one or the other ; which is a
‘ supposition as injurious to the honour of Parliament,
‘ as it is inconsistent with the wisdom and justice
‘ both of His Majesty and of his royal highness the
‘ Prince of *Wales* ; we therefore ought to suppose,
‘ that neither His Majesty nor his royal highness
‘ knows any thing of what we are about ; we are
‘ in duty bound to suppose, that neither of them
‘ will be offended with the fate of this question, be
‘ it what it will ; and it is impossible to suppose it
‘ can occasion any breach between them ; so that let
‘ the importance of the question be of never so high
‘ a nature, it can be of no melancholy concern, nor
‘ can

‘ can it be attended with any cruel consequences.
‘ No man can from thence imagine there is any pri-
‘ vate mistake or dispute between His Majesty and
‘ the Prince, because no man can justly suppose, I
‘ hope no man does suppose, the proceedings in Par-
‘ liament are directed by either. The only thing
‘ they can suppose is, that his royal highness is
‘ not as yet provided for in the manner he deserves,
‘ and in that manner in which all former Princes of
‘ *Wales* have been ; and this was not only supposed,
‘ but publicly known and generally talked of, long
‘ before this motion was thought of ; therefore, if
‘ this motion has any effect on people without doors,
‘ it will be, to shew them, that we are mindful of
‘ our duty, and that we have a due regard for
‘ the honour of the nation, and for the happiness
‘ and independency of the heir apparent to the
‘ crown.

‘ I am far from thinking, Sir, that our agreeing
‘ to this motion will occasion any breach between
‘ the two royal persons concerned : On the contra-
‘ ry, I am convinced it will be extremely pleasing
‘ to both. The royal father must be pleased to see
‘ his eldest son and apparent heir so greatly beloved,
‘ as to have the Parliament interesting themselves in
‘ his behalf ; and the Prince will be pleased to see
‘ the Parliament taking care of his being made in-
‘ dependent of his father’s ministers and servants.
‘ Therefore no gentleman can, in that respect, be
‘ under any difficulty in giving his vote for the que-
‘ stion ; and I am surprised to hear it said, that by
‘ voting for or against it an injury can be done to
‘ either of the royal persons concerned. Can the
‘ giving of an honest and disinterested advice ever
‘ be looked on as an injury to the person to whom
‘ it is given ? Can my refusing to give an advice,
‘ which I do not think proper, be looked on as an
‘ injury by any person whatever ? The address pro-
‘ posed is only by way of advice, and it is giving
‘ our

our advice in the humblest manner. Shall this, Sir, be called a violation of property? Shall it be called a taking from the King that property which is established in him by act of Parliament? If the motion had been, to bring in a bill for taking 100,000 *l.* from the civil list and settling it on the Prince of *Wales*, there might have been some pretence for such exclamations; but surely, our advising his Majesty, in the humblest manner, to give what we think the Prince ought to have, can never be called a taking his property from him by violence; even supposing he had as good and as absolute a right to the whole civil list revenue, as any private man can have to his estate: Which I cannot grant without some restriction; for a private man may squander his estate in what manner he pleases; whereas if the civil list revenue should be ridiculously squandered, the Parliament would have a right to interpose, and would, I believe, interpose in a manner more effectual than that of addressing.

To pretend, Sir, that the Parliament has no power to appropriate money after it is granted, or that we never enter into any consideration about money once granted to the crown, without the previous consent of the crown, has no relation to the present debate; because it is not now proposed to bring in a bill for appropriating any money, nor to take into our consideration any grants made to the crown; it is only proposed to address His Majesty, to make such a settlement on the Prince of *Wales*, as we think necessary for supporting the dignity and grandeur of his high birth: But I must confess, I am at a loss to know how the power of Parliament comes to be confined in either of the cases mentioned; I am sure the Parliament often in one bill appropriates sums of money granted by former bills in the same session, and why it
may

‘ may not appropriate money granted by a bill
‘ passed in a former session I cannot comprehend :
‘ And I think, but last session, we took into our
‘ consideration, and absolutely released a very large
‘ sum of money, formerly granted to the crown,
‘ without any previous consent of the crown ; for I
‘ do not remember we had any general message from
‘ the crown, when we passed the late famous bill
‘ for and against smugglers, by which a very large
‘ sum of money, due by them to the crown, was
‘ absolutely released by Parliament ; though it must
‘ be granted, His Majesty has as good and as abso-
‘ lute a right to every shilling of that money as he
‘ has to any other part of the civil list revenue.
‘ Therefore, if a motion had actually been made, to
‘ bring in a bill for taking 100,000 *l.* a year from
‘ the civil list and settling it upon the Prince of
‘ *Wales*, it would not have been without precedent,
‘ with respect to our having no previous consent
‘ from the crown ; and as the Parliament has cer-
‘ tainly a right to see every sum of money applied
‘ to that use for which it was intended, though not
‘ expressly appropriated, with respect to the power
‘ of Parliament, such a motion would not have been
‘ intirely without reason : But as the motion now
‘ made to us is only for an address, there can be
‘ no doubt of the Parliament’s having a power to
‘ present such an address as is proposed, and there-
‘ fore the only question is, Whether or no it be
‘ proper ?

‘ With respect to this question, Sir, the debate
‘ seems now indeed, by His Majesty’s message, to be
‘ brought within a very narrow compass ; it seems in
‘ some manner to be reduced to one single point,
‘ which is, Whether His Majesty can spare more
‘ than 50,000 *l.* from the civil list revenue, for the
‘ use of his royal highness the Prince of *Wales* ?
‘ By this message even His Majesty seems to acknow-
‘ ledge

‘ ledge, that the Prince of *Wales* ought to have an
‘ independent settlement, and that it is now high
‘ time that settlement should be made ; and the ho-
‘ nourable gentleman who delivered us the message
‘ seems to admit, that the settlement proposed to be
‘ made is not a sufficient settlement ; so that the
‘ only question now remaining is, Whether the ci-
‘ vil list revenue, as it stands at present, can possibly
‘ spare a larger sum for the use of his royal high-
‘ ness ? And from this being made a question, I
‘ shall shew, that the address proposed is a very pro-
‘ per address, and that it is become absolutely ne-
‘ cessary for us to agree to present such an address ;
‘ but as some objections have been made to the right
‘ which the Prince has to a sufficient independent
‘ settlement, I shall first beg leave to answer some
‘ of the most material objections I have heard made
‘ against it.

‘ The maxims of state, Sir, in any kingdom or
‘ commonwealth, are always most certainly to be
‘ deduced from their ancient and general customs :
‘ The historians or political writers of any country
‘ may be mistaken, they may deliver that as a
‘ maxim of state which never had any authority as
‘ such ; they may neglect to mention, or perhaps
‘ not observe, a maxim which has always obtained ;
‘ but where a custom has been long and generally
‘ received, the maxim or rule in politics upon which
‘ that custom is founded, must be allowed to be a
‘ maxim of state in that kingdom or commonwealth.
‘ Can any one then say, the settling of an indepen-
‘ dent and sufficient provision upon the Prince of
‘ *Wales* is not a maxim of state in this kingdom ?
‘ Is it not a custom which has been observed with-
‘ out any one exception, as long, as far back as we
‘ can trace our monarchy ? And the wisdom of this
‘ maxim not only appears from the nature of the
‘ thing itself, but is expressly pointed at almost in
‘ every one of the charters and acts of Parliament
‘ that

‘ that have been granted or made for that purpose.
 ‘ First, with respect to the Prince, the wisdom of
 ‘ this maxim is evident, because he is thereby ena-
 ‘ bled to support the dignity and grandeur of his
 ‘ birth, without a dependence upon his father’s mi-
 ‘ nisters and servants; and then with respect to the
 ‘ crown itself, the wisdom of this maxim is still more
 ‘ evident, because it is established and secured by
 ‘ the honour and character acquired by the heir ap-
 ‘ parent. These two considerations are both point-
 ‘ ed at in the charter, or act of Parliament, by
 ‘ which *Edward III.* granted the dutchy of *Cornwal*
 ‘ to his son *Edward the black Prince*; and in the
 ‘ charter granted by that King for creating his son
 ‘ Prince of *Wales*, the reason for that grant is ex-
 ‘ pressly declared to be, for doing honour to the
 ‘ King, and for adding strength to the nation and
 ‘ to the royal family. Thus, Sir, we see, that the
 ‘ settling of an independent provision upon the
 ‘ Prince of *Wales* was looked on as a piece of great
 ‘ wisdom by *Edward III.* but now it seems we are
 ‘ to look on it as a solecism in politics, as a step
 ‘ which might be the occasion of great misfortunes
 ‘ to the royal family.

‘ But, Sir, while I can distinguish between that
 ‘ laudable, that honourable dependence, which pro-
 ‘ ceeds from loyalty and filial duty, and that vile,
 ‘ that fordid dependence which proceeds from lucre,
 ‘ I shall always be of the same opinion with our
 ‘ great King *Edward III.* The Prince of *Wales*
 ‘ must always have a dependence on the King as his
 ‘ father, as his sovereign: This is a sort of depen-
 ‘ dence which no man can, which no honest man
 ‘ would endeavour to take away or diminish; but
 ‘ to say that he ought to have a pecuniary depen-
 ‘ dence upon the King, or rather upon the King’s
 ‘ ministers, is to say he ought to have a sort of de-
 ‘ pendence which no man of honour or spirit can
 ‘ submit to; and it is a sort of dependence abso-
 ‘ lutely

‘lutely inconsistent with our constitution. The
‘Prince of *Wales* is, by his birth, the first Peer in
‘Parliament, and consequently ought not to be sub-
‘jected to a dishonourable dependence upon any
‘man; but if it should once be established as a
‘maxim, that he ought to be under a vile pecuniary
‘dependence upon his Sovereign, it might then be
‘justly said, he was not only the first Peer, but the
‘first pensioner in Parliament.—From this con-
‘sideration alone we may see, how absolutely ne-
‘cessary it is to have a sufficient and independent
‘provision settled upon every Prince of *Wales* before
‘he comes to man’s estate; and the making of such
‘a settlement will be so far from destroying or di-
‘minishing that dependence which proceeds from
‘loyalty and filial duty, that it will increase and se-
‘cure it; whereas the keeping him under a pecuni-
‘ary dependence, may provoke him to shake off
‘both his loyalty and filial duty. A pecuniary de-
‘pendence is a dependence of so slavish a nature, that
‘no great mind can long bear it: The more honour,
‘the more spirit a man has, the more impatient will
‘he be to get rid of such a dependence; and that
‘impatience may at last get the better both of his
‘loyalty and his filial duty.

‘Thus, Sir, in every light we can put it, the
‘wisdom of this maxim, and the necessity of ob-
‘serving it, must appear evident to those who think
‘there is any other dependence in nature besides that
‘which proceeds from lucre. Indeed to those who
‘put no trust in any other sort of dependence, the
‘politics of *Edward* III. and the maxim on which
‘those politics were founded, must appear ridiculous
‘and absurd; but I hope there are no such gentle-
‘men in this house. I hope there is no gentleman
‘in this house that ever submitted to such a sla-
‘vish dependence, or that ever endeavoured to
‘impose any such upon others; and, I am sure, no
‘man can put his only trust in that which he has

‘ never felt within himself, nor ever experienced in
‘ others.

‘ For this reason it cannot but appear strange to
‘ me, that any gentleman in this house should at-
‘ tempt to evade or deny the maxim I have endea-
‘ voured to establish; yet so loth, I find, are some
‘ gentlemen to admit of it as a maxim of state in
‘ this kingdom, that they have ransacked our histo-
‘ ries to find out other reasons for the frequent set-
‘ tlements made upon our Princes of *Wales*; and
‘ though the security of the crown, and the enabling
‘ the Prince to support the honour and dignity of his
‘ noble birth, are the reasons, and the only reasons,
‘ mentioned in the charters by which those settle-
‘ ments were made, yet we are told these were not
‘ the true reasons; but that the true reasons were, in
‘ order to do honour to some county or borough, to
‘ secure the affections of a people newly conquered,
‘ or to declare and establish the right of the Prince
‘ of *Wales* as next heir to the crown. Thus, when
‘ we are to interpret ancient laws or charters, we
‘ are not to take their meaning or intention from
‘ the words, we are to have no regard to the ex-
‘ press words of the law, but we are to take its
‘ meaning or intention from the history of some co-
‘ temporary facts, with which we cannot but be
‘ very well acquainted; whereas, when we are to
‘ interpret any late statute, for example, the statutes
‘ by which the civil list revenue was established, we
‘ are to regard the words only, we are not to take
‘ the meaning or intention of the law from the histo-
‘ ry of those co-temporary facts with which we are
‘ very well acquainted, and which facts, to the
‘ particular knowledge of many of us, greatly influ-
‘ enced the passing of those laws, and were the chief
‘ cause of the shape they now appear in. Whether
‘ this method of interpreting statutes be established
‘ upon any rule or maxim of law, I do not know;
‘ but

‘ but to me it seems directly contrary to common
‘ sense ; and therefore I must still continue to think,
‘ it has always been held as a maxim of state in this
‘ kingdom, that the Prince of *Wales* ought to have
‘ a sufficient independent estate of his own ; and that
‘ this maxim, and the wisdom and policy upon which
‘ it is founded, were the chief causes of all those set-
‘ tlements that have been made.

‘ A yearly allowance, or an annuity depending
‘ upon the will and pleasure of the King, might
‘ perhaps enable the Prince, if he resolved to spend
‘ the whole yearly as it comes in, to live in as grand
‘ a manner, as an annuity of the same value settled
‘ upon him independently and for life ; but as an an-
‘ nuity depending upon the will of any man must
‘ be precarious and uncertain, no man of common
‘ prudence will resolve to spend the whole yearly :
‘ He will look on it as a sun-shine, upon the conti-
‘ nuance of which he can have no dependence, and
‘ that therefore he ought to save as much as possible,
‘ in order to provide for a cloudy or a rainy day.
‘ Besides, Sir, an annuity of such a nature looks so
‘ very like a pension, it would be inconsistent with
‘ the honour of the nation to suffer, that the heir ap-
‘ parent to the crown should have nothing else to
‘ depend on : It would even be inconsistent with
‘ our constitution. In this kingdom we do not ad-
‘ mit the Judges of our common-law courts, to de-
‘ pend upon the precarious will and pleasure of the
‘ King, and shall we admit or suffer that the Prince
‘ of *Wales*, who is one of the Judges of the supreme
‘ and highest court of Judicature in the nation,
‘ should have nothing else to depend on ? Therefore
‘ we must conclude, that from the established max-
‘ ims of the kingdom, from a continued series of
‘ precedents for a great many ages passed, and from
‘ the very nature of our constitution, the Prince of
‘ *Wales* has a right to a sufficient and independent
‘ settlement ; and that the Parliament may interpose

‘ for making that right effectual, has been shewn
‘ from many precedents.

‘ It is true, Sir, this likewise has been objected
‘ to, and it has been said, that the Parliament has
‘ seldom or never interposed, but when desired or
‘ prompted by the crown to do so; or otherwise,
‘ that the precedents are such as ought not to be
‘ drawn into example. Sir, there is not one of the
‘ precedents which have been mentioned, that ap-
‘ pears to have been founded upon any message
‘ from the crown. The motion was perhaps, in
‘ some of them, made by one who was known to
‘ be a courtier, but can it be said that the motion’s
‘ being made by a courtier, without so much as sig-
‘ nifying he had any authority from the crown for
‘ that purpose, would have made it proper for the
‘ Parliament to have agreed to a motion, which it
‘ would not have been proper for them to have
‘ agreed to, if the same had been made by any other
‘ person, or by one who was not known to be a
‘ courtier? Therefore we must suppose, that with-
‘ out any regard to the mover, the Parliament ap-
‘ proved of the motion, and thought it such a one
‘ as was proper for them to agree to; and from
‘ thence we must conclude, that every one of the
‘ precedents, mentioned in the beginning of this
‘ debate, is a good precedent for the address pro-
‘ posed.

‘ But unluckily, Sir, for the gentlemen of the
‘ other side of the question, there are, I think, very
‘ sufficient reasons for believing, the address or peti-
‘ tion of Parliament, for having *Richard*, the son of
‘ the *Black Prince*, created Prince of *Wales*, was re-
‘ solved on by Parliament without any direction
‘ from, nay, probably in opposition to the court at
‘ that time; for it appears from our records, that
‘ that young Prince was sent to Parliament at the
‘ desire, and upon a petition of the Commons; and
‘ when the Parliament addressed for having him
‘ created

‘ created Prince of *Wales*, the King’s answer shews
‘ he was not very well pleased with the address; for
‘ in his answer he tells them, the creating of a Prince
‘ of *Wales* no way belonged to the Parliament, but
‘ to the King only; which is an answer it can hard-
‘ ly be supposed he would have made, if the address
‘ of Parliament had proceeded from his authority,
‘ or had been moved for with his approbation:
‘ Then again, from the circumstances of the court
‘ at that time, it is not probable the King would
‘ have been so forward in creating his grandson
‘ Prince of *Wales*, if he had not been forced to it
‘ by his Parliament; for it is certain, that King, in
‘ his old age, fell into a sort of love-dotage, and
‘ gave himself intirely up to the management of his
‘ mistress *Alice Pierce*, and his second son the Duke
‘ of *Lancaster*, which raised a most reasonable jea-
‘ lousy in *Edward* the *Black Prince*, who was then
‘ upon his death-bed, and therefore could not but
‘ be anxious about the safety and right of his only
‘ son Prince *Richard*, whom he found he was soon to
‘ leave a child in the hands of a doting grandfather,
‘ and an ambitious aspiring uncle. For this reason,
‘ it is thought, he applied privately to Parliament,
‘ and they obliged the King to send his second son
‘ abroad, and to banish his mistress and her favou-
‘ rites from court, which happened only about a
‘ year before the *Black Prince*’s death; but no soon-
‘ er was that Prince dead, than the King recalled
‘ this Duke of *Lancaster*; and *Alice Pierce* and her
‘ favourites resumed their places and their in-
‘ terest at court; insomuch that a member of the
‘ house of Commons was imprisoned for having
‘ spoke freely against her in Parliament, and was
‘ actually a prisoner when Prince *Richard* was creat-
‘ ed Prince of *Wales*; which shews that the King
‘ was then very much under her management; and
‘ it is not very probable she would advise the King,

‘ to be so very speedy in conferring that honour on
 ‘ Prince *Richard*, since she could not but be sensible
 ‘ that young Prince’s father had been the cause of
 ‘ her having been banished the court. For these
 ‘ reasons, I think it may most probably be presu-
 ‘ med, that both the motions in favour of Prince
 ‘ *Richard*, both that for his coming to Parliament,
 ‘ and that for creating him Prince of *Wales*, were
 ‘ made and carried in Parliament in opposition to
 ‘ the court at that time. This fully justifies the mo-
 ‘ tion now made, and shews we have a right and a
 ‘ power to interpose in favour of the heir apparent
 ‘ to the crown, without any previous consent or ap-
 ‘ probation from the crown ; and I hope it will not
 ‘ be said of the reign of *Edward III.* as has been
 ‘ said of the reign of *Henry VI.* that nothing that
 ‘ happened in that reign ought to be made a prece-
 ‘ dent for any thing in the present reign.

‘ But, Sir, even with respect to the reign of
 ‘ *Henry VI.* for as unfortunate, for as tempestuous
 ‘ a reign as it was, there were many things then
 ‘ done by Parliament, which ought to be made,
 ‘ which, I hope, always will be followed as good
 ‘ precedents, as often as the Parliament has the same
 ‘ occasion. When the nation has the good fortune
 ‘ to be under a wise and prudent administration, the
 ‘ Parliament has never an occasion to exert any of
 ‘ its extraordinary powers. It is in a weak reign,
 ‘ or under a wicked administration, we are to look
 ‘ for the powers of Parliament ; it is in tempestuous
 ‘ times the State flies to Parliament for preservation ;
 ‘ there, I trust in God, the State shall always find it,
 ‘ and then the power of Parliament can be bounded
 ‘ by nothing but the good of the public.

‘ Another precedent, which we are told ought not
 ‘ to be followed, is that which happened in the
 ‘ reign of King *William* ; and why is not this to be
 ‘ followed ? Because it produced a prorogation. Sir,
 ‘ for that very reason it ought to be highly ap-
 ‘ plauded,

‘ plauded, and ought to be followed. Can it be
‘ said that the Princess *Anne* of *Denmark* ought not
‘ to have had some additional settlement made upon
‘ her? Would not such a neglect have been a ble-
‘ mish upon the glory of that reign? Yet that wise
‘ and great King, by the advice of some weak or
‘ malicious favorites, would probably have com-
‘ mitted that error, or at least would have omitted
‘ that duty, if it had not been for the honour, the
‘ fidelity, and the obstinacy of his Parliament. They
‘ thought it was what the King ought to do, they
‘ therefore thought it was their duty to advise him to
‘ do it, they insisted upon it, notwithstanding the
‘ King’s displeasure, and by disobliging him they
‘ put one of the greatest obligations upon him; be-
‘ cause they at last prevailed on him to do that
‘ which was right. The behaviour of that Parlia-
‘ ment is therefore a glorious example, which, I
‘ hope will be followed by this. I can have no
‘ apprehension that an unseasonable prorogation will
‘ be the consequence of our agreeing to this mo-
‘ tion; but if it should, it can be no reason against
‘ our agreeing to the motion: It would be a strong
‘ reason for our resuming the affair, and agreeing to
‘ a motion of the same nature the very first day of
‘ the next session.

‘ But we have been told, Sir, there may be a rea-
‘ son for the Parliament’s interposing between a
‘ King and his presumptive heir, which can never
‘ hold with respect to a King and his eldest son;
‘ because it is not so natural for a man to provide ho-
‘ nourably for his presumptive heir, as it is to pro-
‘ vide for his own children. Suppose then a King,
‘ who has no children, does not provide honourably
‘ for his presumptive heir, what is it that gives the
‘ Parliament a right to intermeddle? Is it not the
‘ right which that presumptive heir has by the con-
‘ stitution and maxims of this kingdom to a suffi-
‘ cient independent settlement, and the power the

‘ Parliament has to see that right made effectual?
‘ And has not the heir apparent as good a right, by
‘ the constitution and maxims of this kingdom, to
‘ a sufficient independent settlement, as the heir pre-
‘ sumptive? Surely he has: he has not only the
‘ same right by the maxims of the kingdom, but
‘ also an additional right by the laws of nature; and
‘ if the King his father should neglect or refuse to
‘ give him his right, which may certainly happen,
‘ some time or other, to be the case, has not the Par-
‘ liament a power to see that right at least, which
‘ he has, by the maxims of the kingdom, made
‘ effectual? To say they have not, would be to
‘ tell us, that where the maxims of the kingdom
‘ only are neglected, the Parliament may inter-
‘ pose, in order to procure a remedy; but where
‘ both the laws of nature, and the maxims of the
‘ kingdom are neglected, the Parliament cannot in-
‘ terpose, nor make the least step towards procu-
‘ ring a remedy.

‘ To avoid falling into such a palpable absurdity,
‘ we are told, that common decency does not admit
‘ of the Parliament’s interposing between father and
‘ son; that it would be intermeddling in the King’s
‘ domestic affairs, and prescribing to his Majesty
‘ what provision he should make for his children;
‘ and lastly, that tho’ the Parliament may have a
‘ right to offer advice to their Sovereign in affairs
‘ which regard his political and royal capacity, yet
‘ they never ought to offer advice to him in any af-
‘ fairs which regard only his natural and paternal
‘ capacity. As for common decency, Sir, it can
‘ never be inconsistent with a man’s duty; therefore
‘ if it be the duty of Parliament to interpose so far
‘ between the King and his eldest son, as to advise
‘ the father to make that settlement upon his eldest
‘ son, which he is bound to make by the maxims
‘ and the laws of his kingdom, common decency
‘ can never forbid or prevent the performance of
‘ that

‘ that duty, nor can any humble and respectful ad-
 ‘ dress or petition from Parliament ever be called a
 ‘ prescribing to the King what provision he should
 ‘ make for any of his children ; but if it should, the
 ‘ Princes and Princesses of the royal Family are in
 ‘ some manner the children of the nation, as was
 ‘ in a late case most solemnly decided ; they are
 ‘ all so much the children of the nation, that the
 ‘ nation is in honour bound to see them provided for
 ‘ in a manner suitable to their high birth ; therefore
 ‘ the Parliament has some sort of right to prescribe
 ‘ what may be deemed an honourable provision for
 ‘ every one of them ; they are to give that provi-
 ‘ sion, and surely they have a right to see what they
 ‘ give, properly applied. But with respect to the
 ‘ eldest son, and heir apparent of the crown, it has
 ‘ been made so fully appear, and has been so gene-
 ‘ rally admitted, that the nation has a concern in
 ‘ seeing him honourably provided for, that I am sur-
 ‘ prised to hear it so much as insinuated, that an ad-
 ‘ dress for that purpose would be an intermeddling
 ‘ in the King’s domestic affairs, or in those affairs
 ‘ which regard only his natural and paternal capaci-
 ‘ ty : It is an affair which regards his Majesty’s po-
 ‘ litical and royal capacity, as much as it does his
 ‘ natural and paternal capacity ; and therefore the
 ‘ Parliament has as good a right to offer their advice
 ‘ in that affair, as they can have in any other.

‘ I hope, Sir, I have now, to the satisfaction of
 ‘ every gentleman in the house, established his Roy-
 ‘ al Highness the Prince of *Wales*’s right to a suf-
 ‘ ficient and independent settlement by the maxims
 ‘ of the kingdom ; and, I hope, I have equally
 ‘ established the power the Parliament has to inter-
 ‘ pose, at least by an address, in order to see that
 ‘ right made effectual, both from precedent, and
 ‘ from the nature of the thing itself. * [Now with

* The remainder of this paragraph, and the two following ones, were spoke
 by Lord Carteret, in the House of Peers, in answer to what was advanced by
 another noble Lord,

‘ respect to the right which his Royal Highness
‘ may have to such a settlement, either in law or
‘ equity, from the method in which the civil list is
‘ now established, and from the statutes by which
‘ that establishment was made, I hope no gentleman
‘ expects we are bound to make out that right in the
‘ same manner it would be, or ought to be made
‘ out, in any of the courts in *Westminster-hall*; and
‘ therefore, I believe, I need not take any notice of
‘ that learning, which has been made use of to prove
‘ he has not such a right, as would be recoverable in
‘ any of the courts below. It may be true that he
‘ has no such right as would intitle him to sue and
‘ recover in any of the courts in *Westminster-hall*,
‘ and yet he may have a right both in law and
‘ equity, and such a right as the Parliament are
‘ bound to see made effectual. The courts of com-
‘ mon law, we know, are confined to very strict
‘ rules, it is necessary they should be so; but in
‘ Parliament, we are bound to follow justice and
‘ equity wherever we can find it, and to administer
‘ it impartially when we have found it: In so doing
‘ we shew a proper regard to the honour and in-
‘ terest of the crown, as well as the liberties and
‘ properties of the subject; and while his Majesty’s
‘ ministers are as loyal as his faithful Commons
‘ have always shewed themselves to be, the general
‘ equity of an act of Parliament will be as sacred,
‘ as religiously observed, and as closely adhered to
‘ at St. James’s as the words of it are in *Westmin-
‘ ster-hall*.

‘ But, Sir, notwithstanding the narrow limits our
‘ Judges at common law have confined themselves
‘ to, notwithstanding their close adherence to the
‘ letter of the law, I can hardly believe they will
‘ give it as their opinion, that the Prince of *Wales*
‘ has no right, either in law or equity to support
‘ out of the civil list revenue; because he has cer-
‘ tainly

‘ tainly as good a right to that share of the civil list
‘ revenue, which was intended for him by Parlia-
‘ ment, as they have to the salaries they enjoy.
‘ Neither his right nor their right, is founded upon
‘ the exprefs words of any statute, they are both
‘ founded upon the meaning and intention of the
‘ legislature, at the time those statutes were passed,
‘ by which the civil list is established, and they must
‘ stand and fall together. I do not mean to say that
‘ our learned Judges would at any time be byassed
‘ in their opinion by their own interest, I am sure
‘ the present would not. No, Sir, they certainly
‘ think, and every man, I believe, thinks, they have
‘ both a legal and an equitable right to the salaries
‘ they now enjoy, and as the Prince of *Wales*’s right
‘ stands upon the same foundations, they would cer-
‘ tainly judge of it as they do of their own, and
‘ would consequently give it as their opinion, that
‘ it was a right founded both on law and equity.

‘ Surely, Sir, neither the Judges in *Westminster-*
‘ *hall*, nor any lawyer, nor any man in the kingdom,
‘ can say, the Prince of *Wales* has no right to have
‘ a necessary support allowed him out of the civil
‘ list. The gentlemen of the other side of the ques-
‘ tion do not pretend to say any such thing; they
‘ have even told us, the eldest son of every landed
‘ gentleman in *England* ought to be supported out
‘ of his father’s estate, and that the support ought
‘ to be according to the character and circumstances
‘ of the family; but say they, he has no legal or
‘ equitable right to any particular share of his fa-
‘ ther’s estate, or to any share but such as his father
‘ pleases to allow him, unless that right be established
‘ by some settlement agreed to by the father. Is
‘ not this, Sir, to tell us, the son has a right and no
‘ right? He has a right to be supported out of his
‘ father’s estate, but he has no right to that support,
‘ unless his father pleases to allow it him. This
‘ method

‘ method of arguing might, for what I know, be of
 ‘ some weight in *Westminster-hall*, but surely, it can
 ‘ be of no weight in this house. If a son has a
 ‘ right to be supported out of his father’s estate, ac-
 ‘ cording to the character and circumstances of the
 ‘ family, he certainly has both a legal and an equi-
 ‘ table right to that particular share of his father’s
 ‘ estate, which bears a just proportion to, and is de-
 ‘ termined by the character and circumstances of the
 ‘ family ; and if the father does not allow him that
 ‘ share, he certainly with-holds his right from him.
 ‘ This right may perhaps not be recoverable in any
 ‘ of the courts of *Westminster-hall* ; but there are
 ‘ many good and just rights, which are not made
 ‘ recoverable in *Westminster-hall*, because the making
 ‘ them recoverable there, would occasion such a
 ‘ multitude of law-suits, as would be inconsistent
 ‘ with the general good of society. The right a
 ‘ man has to gratitude in return for benefits bestow-
 ‘ ed, is not recoverable by any action or suit at
 ‘ law, yet that right is as good and as equitable a
 ‘ right as any right a man can have. In the same
 ‘ manner, the right the Prince has to a sufficient in-
 ‘ dependent settlement out of the civil list revenue,
 ‘ is a good and an equitable right, and tho’ it be
 ‘ not recoverable at law, yet it is such a right as
 ‘ may be regarded, and ought to be enforced by
 ‘ Parliament.]

‘ But to make still a farther use of the rights of
 ‘ private men, in order to clear up the right now
 ‘ under our consideration ; suppose, Sir, a country
 ‘ gentleman has a small estate and a great number
 ‘ of children ; suppose a neighbouring gentleman,
 ‘ or a relation, of a plentiful estate and bountiful dis-
 ‘ position, takes notice of his neighbour’s or his re-
 ‘ lation’s difficulties, and in order to relieve him,
 ‘ and enable him to support his family, settles a
 ‘ large annuity upon him for life ; and suppose that
 ‘ in the deed for establishing that annuity it is ex-
 ‘ pressly

‘ presfly mentioned, that the annuity was granted him
‘ in order to enable him to support and provide ho-
‘ nourably for his family ; I should be glad to know
‘ whether the eldest son of that country gentleman
‘ would have any right to be supported out of that
‘ annuity, and what sort of right he would have ?
‘ I believe in that case, he would have not only a
‘ right established upon the general principles of
‘ equity, but such a right as would be recoverable
‘ in the court of *Chancery*, especially if the granter
‘ of the annuity joined with him in the complaint.
‘ And I am very certain, if the annuitant should
‘ waste his annuity, and neglect to provide sufficient-
‘ ly for his children, especially for his eldest son,
‘ the granter would have a right to complain, or at
‘ least to advise, or desire of him, that he would
‘ apply the annuity to those uses for which he had
‘ granted it ; and his giving such an advice would
‘ be absolutely necessary, if he intended that the
‘ annuitant’s eldest son and apparent heir should
‘ likewise be his heir, and next successor to his estate.
‘ This is so apposite to the case now before us, that
‘ I need not make any application. It not only
‘ shews that the Prince has a right to a sufficient set-
‘ tlement out of the civil list revenue, but it shews
‘ that we have a right, that we are in duty bound
‘ to interpose, in order to see that right made ef-
‘ fectual.

‘ Thus, Sir, it appears the Prince has a right to
‘ be supported out of the civil list revenue, by the
‘ general maxims of the kingdom, and also by the
‘ meaning and intention of those very statutes, by
‘ which the present civil list was established ; and if
‘ he has a right to any support, he has certainly a
‘ right to a sufficient support, to such a support as
‘ the high character of the royal family of *Great*
‘ *Britain* may require, and the present circumstances
‘ of the civil list revenue will admit of ; therefore,
‘ if the settlement proposed, by the message now
‘ before

‘ before us, to be made, be not sufficient, the message
‘ is so far from being an argument against, that it is
‘ one of the strongest arguments that can be thought
‘ of, for the motion; because it shews that without
‘ the interposition of Parliament, his Royal High-
‘ ness is not to have, nor can expect a sufficient set-
‘ tlement. That the settlement proposed to be made
‘ upon his Royal Highness by this message, is not
‘ sufficient, has been in some measure acknowledged
‘ by the honourable gentleman who delivered us the
‘ message; but farther, Sir, it has been expressly
‘ acknowledged by the King himself. By the re-
‘ gulation and settlement of the Prince’s household,
‘ as made some time since by His Majesty himself,
‘ the yearly expence comes to 63,000*l.* without
‘ allowing one shilling to his Royal Highness for
‘ acts of charity and generosity. By the message
‘ now before us, it is proposed to settle upon him
‘ only 50,000*l.* a year, and yet from this sum we
‘ must deduct the land-tax, which at two shillings
‘ in the pound amounts to 5000*l.* a year, we must
‘ likewise deduct the six-penny duty to the civil list
‘ lottery, which amounts to 1250*l.* a year, and also
‘ we must deduct the fees payable at the *Exchequer*,
‘ which will amount to about 750*l.* a year more;
‘ all which deductions amount to 7000*l.* a year,
‘ and reduces the 50,000*l.* a year proposed to be
‘ settled upon him by the message, to 43,000*l.* a
‘ year: Now as his Royal Highness has no other
‘ estate but the Dutchy of *Cornwall*, which cannot be
‘ reckoned at the most above 9000*l.* a year, his
‘ whole yearly revenue can amount but to 52,000*l.*
‘ a year; and yet the yearly expence of his hou-
‘ shold, according to His Majesty’s own regulation,
‘ is to amount to 63,000*l.* a year, without allowing
‘ his Royal Highness one shilling for the indulgence
‘ of that generous and charitable disposition with
‘ which he is known to be indued, to a very emi-
‘ nent

‘ nent degree. Suppose then we allow him but
‘ 10,000 *l.* a year for the indulgence of that laudable
‘ disposition, his whole yearly expence, by His Ma-
‘ jesty’s own acknowledgment, must then amount
‘ to 73,000 *l.* a year, and his yearly income, accord-
‘ ing to this message, can amount to more than
‘ 52,000 *l.* a year. Is this, Sir, shewing any respect
‘ to his merit? Is this providing for his generosity?
‘ Is it not reducing him to a real want, even with
‘ respect to his necessities, and consequently to an
‘ unavoidable dependence, and a vile, a pecuniary
‘ dependence too, upon his father’s ministers and
‘ servants. I confess, Sir, when I first heard this
‘ motion made, I was wavering a good deal in my
‘ opinion; but this message has confirmed me: I
‘ now see that without the interposition of Parlia-
‘ ment, his Royal Highness the Prince of *Wales*,
‘ the heir apparent to our crown, must be reduced
‘ to the greatest straits, the most insufferable hard-
‘ ships.

‘ After what I have said, Sir, I think I need not
‘ take up your time with shewing the yearly value
‘ of the settlements made upon former Princes of
‘ *Wales*; the insufficiency of the settlement propo-
‘ sed for the present, is so demonstrable from the
‘ calculations and accounts I have laid before you,
‘ that there is no occasion for having recourse to
‘ former precedents, for shewing that insufficiency;
‘ yet I cannot omit taking notice to you, that the
‘ revenue enjoyed by the late King *James* while
‘ Duke of *York*, tho’ but presumptive heir of the
‘ crown, amounted to 104,000 *l.* a year; and the re-
‘ venue enjoyed by the present King, while Prince
‘ of *Wales*, amounted to upwards of 100,000 *l.* a
‘ year; which I take notice of, in order to shew
‘ you, that His Majesty did not propose any thing
‘ extraordinary or extravagant, when he regulated
‘ and settled the household for his present Royal
‘ Highness.

‘ I come

‘ I come now, Sir, to the last question, and
‘ which I take to be indeed, the only question in
‘ this debate, which is, Whether it be possible for
‘ his Majesty to spare more than 50,000*l.* a year
‘ for his royal Highness from the civil list, as it now
‘ stands established? And this question I shall confi-
‘ der in two methods; first, by shewing that the
‘ civil list, as now established, must amount to
‘ above 100,000*l.* a year more than was ever had
‘ or enjoyed by his late Majesty; and next, by sup-
‘ posing that it amounts to no more than was enjoy-
‘ ed by his late Majesty. In the first method, Sir,
‘ let us remember, it was acknowledged in Parlia-
‘ ment before the late Gin Act was passed, that the
‘ produce of the whole taxes, excises, and duties,
‘ appropriated to the civil list, amounted to 818,000*l.*
‘ a year: I believe it will be admitted that the
‘ 70,000*l.* a year granted by that act to the civil
‘ list, and made payable out of the aggregate, or
‘ rather out of the sinking fund, does more than
‘ compensate the loss the civil list sustained by
‘ taking from it the duties on spirituous liquors, in
‘ which case the increase of the excise upon beer and
‘ ale, occasioned by the preventing the retail of spi-
‘ rituous liquors, must wholly be a neat profit to
‘ the civil list: The increase of the excise upon beer
‘ and ale, if I am rightly informed, amounted for
‘ the very first quarter, I mean from *Michaelmas* to
‘ *Christmas* last, to near 30,000*l.* one half of which
‘ goes to the civil list; so that we may reckon the
‘ civil list has got by the *Gin Act*, an addition of at
‘ least 60,000*l.* a year: besides what is got by the
‘ increase of the Wine-licence-duty, which every
‘ one knows has been greatly increased by prohibit-
‘ ing the retail of spirituous liquors. Then, Sir,
‘ let us recollect, that a little before his present Ma-
‘ jesty’s accession, the civil list was discharged of
‘ 36,200*l.* a year in pensions, which during the
‘ greatest

‘ greatest part of his late Majesty’s reign, were paid
‘ out of the civil list, but ever since his Majesty’s
‘ accession have been a burden upon, and paid out
‘ of the public service. Let us add together these
‘ three sums of 818,000 *l.* 60,000 *l.* and 36,200 *l.*
‘ and they amount to 914,200 *l.* which, according
‘ to the highest probability, we must allow to be
‘ the yearly amount of the civil list revenue, as now
‘ established, and which is 114,000 *l.* a year, more
‘ than was enjoyed by his late Majesty, even includ-
‘ ing all the particular grants that were occasionally
‘ made to the civil list in his reign.

‘ But, Sir, this is not all, his present Majesty has
‘ had one very extraordinary grant of 115,000 *l.*
‘ made to the civil list; and the 80,000 *l.* granted
‘ as a fortune to the Princess Royal, may properly
‘ be said to have been an extraordinary grant to
‘ the civil list; for tho’ I am far from finding fault
‘ with that grant, yet as the civil list was granted,
‘ in order to enable his Majesty to make an honour-
‘ able provision for his whole royal family, that
‘ Princess’s marriage-provision should have been
‘ paid out of the civil list; and since the public took
‘ it upon them, it ought to be looked on as a new
‘ and an extraordinary grant made to the civil list.
‘ Then, Sir, I must not forget another yearly ad-
‘ dition, which may be looked on as a very great
‘ sum, considering from whence it comes, I mean
‘ a sum of 40,000 *l.* a year from *Scotland*, which is
‘ now a yearly addition to the civil list. I will not,
‘ indeed, take upon me to say, that the whole, or
‘ any part of that sum is brought in specie to *Lon-*
‘ *don*; but if it is laid out for paying pensions in
‘ *Scotland*, which must be paid yearly out of the
‘ civil list revenue, I may take upon me to say, it
‘ prevents an equal sum from being sent yearly in
‘ specie from *London*. From all which considera-
‘ tions I think it is evident, his present Majesty has

‘ above 100,000 *l.* a year more than his late Ma-
‘ jesty ever enjoyed ; and therefore we must con-
‘ clude, he may easily spare 100,000 *l.* a year for
‘ the use of his Royal Highness, without any great
‘ frugality or good management, and without con-
‘ tracting any part of that expence which was found
‘ necessary in the late reign. I am now, Sir, to
‘ make a supposition, which, I believe, no gentle-
‘ man that hears me will join with me in : I am to
‘ suppose that the civil list revenue, with all the ad-
‘ ditions and improvements lately made to it, does
‘ not produce one shilling more than his late Ma-
‘ jesty enjoyed, including the several occasional
‘ grants that were made to him : in short, I am to
‘ suppose, it does not produce one shilling more than
‘ 800,000 *l.* a year ; and if upon this supposition,
‘ I can shew, that with tolerable management, it
‘ may spare 100,000 *l.* a year to the Prince, I am
‘ sure every gentleman will conclude, his Royal
‘ Highness ought to have at least that sum settled
‘ upon him ; and the opposition that has been made
‘ to this motion, and the message we have received,
‘ will be additional arguments for having that sum
‘ settled upon him in the most independent man-
‘ ner. We may remember, Sir, or at least we may
‘ see by the journals, that when the 700,000 *l.* a
‘ year was settled upon his late Majesty, the state
‘ of the King’s household, and also the state of the
‘ Prince of *Wales*’s household, and the whole articles
‘ of expence necessary for supporting the honour
‘ and dignity of the crown, or of the heir apparent,
‘ were very minutely and maturely examined into
‘ and considered, and upon that minute and strict
‘ examination it was found, that 600,000 *l.* a year
‘ was sufficient for supporting the honour and dig-
‘ nity of the crown, and that 100,000 *l.* a year
‘ was the least that was necessary for supporting the
‘ honour and dignity of the heir apparent. In the
‘ calculations made at that time, we are not to sup-
‘ pose,

‘ pose, the Parliament restricted themselves to the
‘ nett sum which appeared to be necessary for sup-
‘ porting the King’s household and civil government.
‘ We cannot suppose any such thing, because the
‘ nett sum, found necessary for that purpose in the
‘ late Queen’s time, appears never to have exceed-
‘ ed 430,000 *l.* a year ; and in the first year of the
‘ late King, the whole expence of his household and
‘ civil government amounted to but about 453,000 *l.*
‘ so that if they had restricted themselves to the nett
‘ sum which appeared to be necessary for supporting
‘ the King’s household and civil government, they
‘ could not have computed the sum necessary for
‘ that purpose at above 460,000 *l.* a year ; but they
‘ considered that something was to be allowed year-
‘ ly for acts of generosity and charity, and some-
‘ thing was likewise to be allowed yearly for what
‘ is called secret service money ; for both which,
‘ it seems, they computed 140,000 *l.* a year would
‘ be sufficient, and therefore reckoned that a gross
‘ sum of 600,000 *l.* a year would be sufficient for
‘ supporting the honour and dignity of the crown,
‘ to which they added 100,000 *l.* a year more for
‘ the support of the Prince of *Wales*.

‘ The 140,000 *l.* a year allowed for acts of ge-
‘ nerosity, and for secret service money, was then
‘ thought to be a very large and a very sufficient
‘ allowance ; and from the experience of the former
‘ reign, from the experience of the reign of Queen
‘ *Anne*, there was good reason to think it a very
‘ sufficient allowance ; for in all that reign, besides
‘ what was allowed for secret service money to the
‘ Generals of our armies, and most profitably, most
‘ gloriously for the nation bestowed by them, or
‘ at least by one of them, I mean our General in
‘ *Flanders*, there appeared to be but two sums given
‘ to any secret or unknown uses, and these were
‘ so small, so trifling, it would surprize one ; for

‘ the one was a sum only of 1200 *l.* and the other
‘ of 500 *l.* only ; and even as to these, upon a par-
‘ ticular and private inquiry, it appeared, the first
‘ had been issued for entertaining Prince *Eugene*,
‘ when he did this nation the honour of a visit, and
‘ the other had been made a present of to one of the
‘ Queen’s own relations. From hence, I say, the
‘ Parliament had good reason to think that 140,000 *l.*
‘ a year was a sufficient allowance to his late Ma-
‘ jesty for acts of generosity, and for secret service ;
‘ but I do not know for what reason, or by what
‘ fatality, the branch of the civil list expence, called
‘ secret service money, increased prodigiously in
‘ the late reign ; it increased so prodigiously, Sir,
‘ that in four years, from the year 1721, to 1725,
‘ that branch of the civil list expence amounted to
‘ 2,728,000 *l.* which was at a medium 682,000 *l.*
‘ a year ; as appeared by an account which hap-
‘ pened by some chance or other to be laid before
‘ Parliament. By that account it appeared, that
‘ vast sums of money had been given for purposes
‘ which no-body understood, and to persons whom
‘ no-body knew, or had ever heard of ; for which
‘ reason, in the beginning of the following session,
‘ the account having been laid before the house at
‘ the very latter end of the former session, several
‘ gentlemen had a mind to have taken it into confi-
‘ deration ; but this inquiry was warded off, by
‘ telling them, the Parliament could not take into
‘ their consideration any account that had been pre-
‘ sented to a former session.

‘ It is to this only, Sir, we are to impute the ne-
‘ cessity of making any new grants to the civil list
‘ in the late King’s reign ; for as to the visible ex-
‘ pence of the King’s household and civil govern-
‘ ment, it was no way increased, or at least not con-
‘ siderably increased, above what it was in the for-
‘ mer reign, or in the first year of his own ; and as
‘ the visible expence of his present Majesty’s hous-
‘ hold

‘ hold and civil government is no way, or but very
‘ little, increased above what the expence of the late
‘ King’s household and civil government amounted
‘ to, even supposing the present civil list revenue
‘ to amount to no more than 800,000 *l.* a year, we
‘ must conclude that 100,000 *l.* a year may be easi-
‘ ly spared out of it for the use of the Prince of
‘ *Wales* ; for allowing 460,000 *l.* a year to be now
‘ necessary for supporting the nett charge of the
‘ King’s household and civil government, which is
‘ 30,000 *l.* a year more than it amounted to in the
‘ late Queen’s reign, and 7000 *l.* a year more than
‘ it amounted to in the first year of the late King’s
‘ reign ; allowing 50,000 *l.* a year for the Queen ;
‘ allowing 50,000 *l.* a year for Prince *William*,
‘ the Princesses, and for a proportionable addi-
‘ tional allowance for bed and board, and other
‘ extraordinary expences in the several palaces ;
‘ and allowing 100,000 *l.* a year for the Prince of
‘ *Wales* ; his Majesty has remaining 140,000 *l.* a
‘ year to be employed in acts of generosity, and
‘ in secret service, which is as large a sum as the
‘ Parliament thought necessary for that purpose in
‘ the beginning of the late reign, and is, in my
‘ opinion, a larger sum than can in the time of
‘ peace be wisely or prudently employed in that
‘ way, especially considering his Majesty’s nume-
‘ rous issue, and the great expences which do, and
‘ must necessarily attend an honourable provision
‘ for his whole royal family.

‘ From the account I have given you, Sir, of the
‘ prodigious increase of secret service money in the
‘ late reign, we may more clearly see, than perhaps
‘ we could do before, what was the intention of that
‘ Parliament, which established the present civil list
‘ upon his Majesty, and what was then meant by the
‘ experience of past times ; and therefore I shall take
‘ the liberty to explain myself upon that head. The
‘ surprizing account of the secret service money I

‘ have mentioned, was then fresh in every man’s
‘ memory ; it had been under their consideration
‘ but a year or two before, and the extraordinary
‘ amount of that account had been so much and so
‘ lately found fault with, that they would not cer-
‘ tainly have agreed to settle upon his present Ma-
‘ jesty as large a civil list as had been settled and
‘ given to the late King, but that they considered,
‘ that his Majesty had a Queen consort, and several
‘ younger children to provide for, and therefore
‘ could not allow his ministers to run into any such
‘ extraordinary expence, with respect to secret ser-
‘ vice money, but would apply what might and
‘ ought to be saved upon that article, to the making
‘ of an honourable provision for the Queen consort,
‘ and for his younger children. As his late Majesty
‘ had in the whole but 700,000 *l.* a year, as that re-
‘ venue had enabled him not only to support the ho-
‘ nour and dignity of the crown, but to employ a
‘ much larger sum in secret service money than had
‘ ever before been, or ever could for the future be
‘ necessary or safe in this kingdom, according to the
‘ opinion of many gentlemen in both houses of Par-
‘ liament, those gentlemen could not, from the ex-
‘ perience of past times conclude, that 700,000 *l.* a
‘ year would be necessary for his present Majesty,
‘ if they had not considered, as I have said, that his
‘ present Majesty had a Queen consort and several
‘ younger children to provide for, and that what-
‘ ever could be saved out of the sums, needlessly, as
‘ they thought, expended in secret service money by
‘ his late Majesty, might be usefully employed by
‘ his present Majesty, in making an honourable pro-
‘ vision for his royal family ; therefore, and for this
‘ reason only, they agreed to the settling 700,000 *l.*
‘ a year upon his present Majesty for supporting the
‘ honour and dignity of the crown, and providing
‘ for his royal family ; and to this sum 100,000 *l.* a
‘ year more was added, in order that he might settle
‘ upon

‘ upon the Prince of *Wales*, as soon as he came to
‘ *England*, the same revenue he had himself enjoyed
‘ in the life-time of his father.

‘ From this state of the case, I think, we may
‘ evidently see, what the Parliament then meant by
‘ the experience of past times, and what they in-
‘ tended with respect to the Prince of *Wales*; but,
‘ Sir, to put this matter in another and yet a clearer
‘ light, I shall beg leave to divide the civil list reve-
‘ nue, settled and occasionally granted to his late
‘ Majesty, into three parts; one part amounting to
‘ 460,000*l.* a year, is that which was applied for the
‘ support of the King’s household and civil govern-
‘ ment, and was a little larger than had ever before
‘ been found necessary for that purpose; the other
‘ part, amounting to 100,000*l.* a year, is that which
‘ was settled, and had, during the whole reign of the
‘ late King, and indeed I may say ever since the be-
‘ ginning of the reign of King *Charles* the second,
‘ been deemed the least sum that was necessary for
‘ supporting the honour and dignity of the heir ap-
‘ parent to the crown; and the remaining third part,
‘ amounting to 240,000*l.* a year, is that which was
‘ allowed to his late Majesty for acts of generosity
‘ and charity, and for secret service money, but had
‘ always been thought by most men without doors,
‘ and I believe by most within, to be too large a sum,
‘ and was really, at least, twice as large a sum as had
‘ ever been allowed for these purposes to any former
‘ King of this nation. Upon his present Majesty’s
‘ accession it appeared, that he was subject to a charge
‘ which the late King was free from, I mean that of
‘ providing for his Queen and younger children;
‘ yet he neither asked, nor did the Parliament grant
‘ him any greater civil list revenue than the late King
‘ enjoyed. This additional charge, which the present
‘ King was then subject to, was therefore certainly
‘ intended, both by King and Parliament, to be
‘ thrown upon some one, or some two of the three

‘ parts into which I have divided the late King’s
‘ civil list revenue, or upon the three jointly ; and
‘ considering the circumstances of these three parts,
‘ which were then exactly as I have represented them
‘ to you, I must refer to every gentleman that hears
‘ me, whether it is not most probable, that both
‘ King and Parliament intended to throw this addi-
‘ tional charge either solely upon the third part, or
‘ upon the first and third jointly ? Is there not all
‘ the reason in the world to presume, that both King
‘ and Parliament then intended, that the second
‘ part should be intirely free from this additional
‘ charge ? And is not this still more probable, on
‘ account of the Prince of *Wales*’s being then actu-
‘ ally come to man’s estate, and the whole nation in
‘ daily hopes of seeing him married, and soon blessed
‘ with children ?

‘ Sir, if there were not a man alive who was then
‘ in Parliament, I should, from this state of the
‘ case, be convinced, the Parliament then intended
‘ the Prince should have his 100,000 *l.* a year, with-
‘ out one shilling abatement ; but I had then the ho-
‘ nour to be a member of Parliament myself, I know
‘ what was my own intention, I know what was the
‘ intention of many others ; I know we all intended
‘ and expected that 100,000 *l.* a year should have
‘ been settled on the Prince of *Wales* as soon as he
‘ came to *England* : And I very well remember,
‘ the honourable gentleman who made the motion
‘ for settling the present civil list revenue, made use
‘ of it as an argument for his motion, that the Prince
‘ of *Wales* was then near of age, and that it would
‘ be very soon necessary to settle the same revenue
‘ upon him, that had been settled upon his father,
‘ while Prince of *Wales*. This, Sir, I say, I very
‘ well remember ; and I remember too, that it
‘ seemed to be the reason which had most weight
‘ with the house, and which, I believe, chiefly pro-
‘ cured his motion almost an unanimous approbation.
‘ Gentle-

‘ Gentlemen may talk what they please, about gathering the intention of an act of Parliament from the words only : This may be the rule in *Westminster-hall*, but it is impossible it can be the rule in either house of Parliament, especially when there are so many members now in each house, who had a share in the passing of that law. They must gather the intention of the act from the intention they themselves had at the time of its passing, and their testimony ought to have some weight with those, who had not the honour of being members of either house at the time the law was passed.

‘ It certainly was the intention of Parliament, Sir, I hope it is still the intention of Parliament, that his Royal Highness should have at least 100,000*l.* a year out of the civil list ; and since it is now made manifest by the message delivered to us in this debate, that he is like to be disappointed of one half of what was, and I hope still is intended for him by Parliament, it is become absolutely necessary for us to address his Majesty, in order to know from him the reason of that disappointment. If the civil list revenue produces above 900,000*l.* a year, as I believe it does, it may certainly spare 100,000*l.* a year to the Prince of *Wales* ; if it produces but 800,000*l.* a year nett, which no man believes, yet even in that case it may spare 100,000*l.* a year to the Prince of *Wales*, according to the best judgment we can form from the experience of any former reign : But suppose it true, that by reason of some new and extraordinary articles of expence, the civil list revenue cannot spare above 50,000*l.* a year to the Prince of *Wales*, we ought to have that answer from the King himself, and in a proper and direct manner, which we can have no other way but by means of the address proposed. If such an answer should be returned to us, I am sure it will then be our duty to inquire into the produce, and into the disposal

‘ posal of the civil list revenue, especially that part
 ‘ of it which is pretended to be laid out in secret
 ‘ services. The civil list revenue was never so high
 ‘ as in this reign ; it is a most dangerous revenue,
 ‘ especially when a very considerable part of it may
 ‘ be applied no man knows how : it is a sharp in-
 ‘ strument in the hands of a minister, which may
 ‘ some time or other be employed in cutting the
 ‘ throat of our constitution. During his present
 ‘ Majesty’s reign, we cannot apprehend that any
 ‘ part of it will be converted to a bad use ; but I
 ‘ hope I shall never see such a revenue granted in
 ‘ any future reign, nor granted in such a manner.
 ‘ Money generally carries persuasion along with it ;
 ‘ therefore it is most justly to be apprehended, that
 ‘ some future guilty minister, provided with such
 ‘ a large fund of persuasion, and that persuasion
 ‘ supported by an armed force, may be enabled
 ‘ to do whatever he pleases with our constitution ;
 ‘ and as either he or our constitution must be sacri-
 ‘ ficed, we may easily judge which will bleed at the
 ‘ altar.

‘ As his Majesty’s message to the Prince was in
 ‘ writing, and is now communicated to us by his
 ‘ Majesty’s command, it may be made use of, and
 ‘ is certainly a very strong argument in favour of
 ‘ the motion ; but, Sir, I am surprized to hear the
 ‘ Prince’s supposed answer made use of in this house
 ‘ as an argument against the motion ; because the
 ‘ Prince’s answer neither was in writing, nor was
 ‘ desired to be given in writing ; * and, as I took
 ‘ it down in writing soon after his Royal Highness
 ‘ delivered it, I must beg leave to say, it was not
 ‘ exactly in the terms the noble Lords who brought
 ‘ the message seem to have reported ; therefore I
 ‘ wish they had given his Royal Highness previous
 ‘ notice of the message, and desired that he might

* The words of this passage were delivered in the house of Commons by the
 late John Hedges, Esq; treasurer to his Royal Highness.

‘ prepare

‘ prepare to give them an answer in writing, which
‘ would have prevented any surprise of the one side,
‘ or any mistake on the other ; for I am convinced,
‘ the noble Lords did not designedly make any
‘ mistake in their report. Altho’ I took down his
‘ Royal Highness’s answer in writing, yet, Sir, I
‘ shall not pretend to communicate it to this house,
‘ since I have no authority from him for that pur-
‘ pose ; but thus much I may observe, that if his
‘ Royal Highness said he was sorry for any thing,
‘ it was, that he was sorry any gentleman of either
‘ house of Parliament should have occasion to give
‘ himself any trouble about that settlement, which
‘ ought to be made upon him ; and this, I believe,
‘ the greatest part of the nation are sorry for, as well
‘ as his Royal Highness: I am sure every man, who
‘ has a true regard either for his father or him, or
‘ for any of their illustrious family, must be sorry
‘ for it. However, Sir, even suppose his answer
‘ had been in the very words reported, it is so full
‘ of filial duty and respect, that it is a new argu-
‘ ment for the address proposed ; because the great
‘ respect which his Royal Highness there shews for
‘ the King his father, may very probably prevail
‘ upon him to submit to very great difficulties,
‘ rather than take the liberty of troubling his father
‘ with any new, tho’ most necessary demand ; which
‘ is a strong argument for the necessity of his having
‘ a sufficient independent settlement, and for the
‘ Parliament’s interposing in his behalf.

‘ So unluckly, Sir, are the gentlemen of the other
‘ side of the question, that nothing has happened,
‘ almost nothing has been said during the whole
‘ debate, but what tends to fortify the argument
‘ against them. This, I am sure, may most justly
‘ be said of the melancholy account they have given
‘ us of that unlucky dispute which happened between
‘ the present King, when Prince of *Wales*, and the
‘ late

‘ late King his father. I shall most readily agree,
‘ that that dispute was owing neither to any want
‘ of paternal affection in the late King, nor to any
‘ want of filial duty in the present, but to the pride
‘ and vanity of some mean and low sycophants and
‘ tale-bearers. Now, Sir, I would be glad to know
‘ from those gentlemen, what sort of situation they
‘ think the present King, who was then heir appa-
‘ rent to the crown, would have been reduced to, if
‘ he had had no independent settlement of his own,
‘ or not a sufficient independent settlement? The
‘ account they have given us of his situation is me-
‘ lancholy enough ; but if he had not been provided
‘ with a sufficient independent settlement, would not
‘ the account of his situation have been a great deal
‘ more dismal? Would not he have been obliged
‘ either to submit to, and become the slave of those
‘ very mean and low sycophants, or to subsist by
‘ the generosity and beneficence of his friends? And
‘ we know, Sir, how hard it is to meet either with
‘ generosity or beneficence, when people are sensible
‘ that their generosity and beneficence will be im-
‘ puted to them as a crime against the state. Can
‘ any thing be said, Sir, can any thing be thought
‘ of, that can justify our agreeing to the motion,
‘ more than this very accident? For, if ever any
‘ such unlucky accident should happen, which God
‘ forbid ! it may happen, when his Royal Highness
‘ is blessed with as many children as the King his
‘ father was when that accident happened to him ;
‘ and we are not certain the court would, in such
‘ a case, behave in the same manner towards his
‘ children.

‘ I am surprized, Sir, to hear a motion for an
‘ humble address called a stating ourselves as the
‘ higher power, and bringing the Prince of *Wales*
‘ and his Majesty as plaintiff and defendant before
‘ us. Can advice be called a decree, or is the com-
‘ mon

‘ mon stile of an address the stile of a superior
‘ power? But I am still more surprized to hear it
‘ said, our agreeing to the question would be a de-
‘ termining, that his Majesty has done injustice to
‘ his eldest son. Does not every one know, that
‘ our Kings can do no wrong, that they can do no
‘ injustice? If any wrong is done, we must always
‘ necessarily suppose it done by the ministers; and
‘ if any of them has told the King, that 50,000*l.*
‘ a year is sufficient for supporting the Prince of
‘ *Wales*, or has led his Majesty into such an expence,
‘ that he cannot spare more out of the civil list, I
‘ will say they have done injustice; and the nation
‘ will, the nation ought to suppose they are no
‘ longer fit, nor ought to continue to rule over us:
‘ so that, whatever foreigners may think, no man
‘ who understands our constitution, can expect or
‘ suppose our agreeing to this motion will be at-
‘ tended with any such misfortune as has been re-
‘ presented.

‘ Our agreeing to this question, Sir, can be at-
‘ tended with no misfortune to any branch of the
‘ royal family, nor can it be the occasion of any
‘ quarrel or breach between the King and the Prince:
‘ indeed it may be the occasion of his Majesty’s
‘ quarrelling with those who have told him, that
‘ 50,000*l.* a year is enough for his eldest son; be-
‘ cause it is to be presumed, his Majesty will give
‘ more credit to his Parliament than to any coun-
‘ fellow he has about him; and consequently will dis-
‘ miss them from his councils, for telling him what
‘ he finds by the address of his Parliament to be a
‘ notorious falsehood: or it may be the occasion of
‘ his Majesty’s quarrelling with those who have led
‘ him into such an expence, as not to be able to
‘ spare above 50,000*l.* a year to the Prince of *Wales*;
‘ because such an address from Parliament would
‘ certainly procure a contracting of that expence for
‘ the future, or would produce an inquiry into the
‘ late

‘ late management of the civil list revenue, by either
 ‘ of which his Majesty would find, they had led
 ‘ him into a needless expence; the certain conse-
 ‘ quence of which would be, his turning them out
 ‘ of his service. Our agreeing therefore to the mo-
 ‘ tion can never produce any breach between the
 ‘ royal father and the royal son; but if we should
 ‘ disagree to the motion, it will afford an opportu-
 ‘ nity for evil counsellors to confirm his Majesty in
 ‘ that error they have already endeavoured to lead
 ‘ him into; and as one wicked step generally be-
 ‘ gets a second, worse than the first, they may very
 ‘ probably represent this motion in Parliament as
 ‘ procured by his Royal Highness, in order to di-
 ‘ stress his Majesty’s measures, and to procure him-
 ‘ self a much larger settlement than he has any occa-
 ‘ sion for. This second step we have some reason
 ‘ to dread, Sir, even from the words of the message
 ‘ now before us; and therefore we have great rea-
 ‘ son to dread, that our disagreeing to the motion
 ‘ may produce, or at least be the distant cause of a
 ‘ perpetual breach between the father and son; but
 ‘ in that case it cannot be said, that those who have
 ‘ endeavoured to do justice to the son were the cause
 ‘ of the breach; we must look for the cause in the
 ‘ opposite corner; and, I hope, if there should ever
 ‘ be any necessity for an amputation, it will fall upon
 ‘ those who most justly deserve it.

* ‘ We have heard a great deal, Sir, of the ill
 ‘ effects our agreeing to this motion may have on
 ‘ the people without doors. These apprehensions,
 ‘ Sir, I have shewed to be without any foundation,
 ‘ at least with respect to his Majesty himself, or any
 ‘ of his illustrious family; but let us consider the
 ‘ ill effects our not agreeing to this motion may
 ‘ have upon people without doors, with respect to
 ‘ the opinion they may from thence form of the

* *This paragraph was spoke by the hon. Henry Bathurst Esq;*

‘ heir

‘ heir apparent to our crown, or of the justice and
‘ equity of Parliament. What will people think,
‘ what will they say of the Prince of *Wales*, when
‘ they hear that his settlement is reduced to one half
‘ of what has, for these many years last past, been
‘ thought necessary for supporting the honour and
‘ dignity of the heir apparent or presumptive to the
‘ crown of *Great Britain*; and that at a time when
‘ every other provision for the rest of the royal fa-
‘ mily has been vastly increased? The civil list is
‘ now near double what it formerly was: The dowry
‘ settled upon her present Majesty, and most deserv-
‘ edly settled, is double what was ever settled upon
‘ any former Queen. The marriage-provision grant-
‘ ed by Parliament to the Princess Royal, is double
‘ what was ever given to any Princess Royal of *Eng-
‘ land*; for King *Charles* the first’s daughter had but
‘ half the sum, and even that, I believe, was never
‘ paid; and King *James* the second’s daughter,
‘ whom King *Charles* the second looked on as his
‘ own, had but 40,000 *l.* when married to the Prince
‘ of *Orange*, afterwards our glorious deliverer, nor
‘ was that sum fully paid, I believe, till he came to be
‘ our King, when I do not know but he might have
‘ interest enough to see himself paid. If we should
‘ disagree to this motion, will not the people have
‘ reason to conclude, that we have no great opinion
‘ of the merit of the present Prince of *Wales*? Will
‘ they not from thence imagine, he is not worthy of
‘ succeeding to the throne? They would certainly
‘ imagine so, Sir, if it were possible; but, thank
‘ God, his merit is publicly and generally known:
‘ Every one knows, that no part of any settlement
‘ made upon him will be hoarded up, to the detri-
‘ ment of public circulation, nor the least part of it
‘ converted to any wicked or ridiculous use: No,
‘ Sir, whatever he may have more than necessary
‘ for supporting the dignity of the apparent heir to
‘ our crown, will, we are sure, be wholly employed
‘ in

‘ in acts of true charity and public utility. So far
 ‘ as the Prince can spare it, the wants of every de-
 ‘ serving man will be supplied, the unfortunate will
 ‘ be relieved, and whoever excels in virtue and true
 ‘ merit, will be rewarded. As this is the case with
 ‘ respect to his Royal Highness, what opinion can
 ‘ the people without doors form of the proceedings
 ‘ within? Will they not be apt to say, our proceed-
 ‘ ings are directed, not by justice, but by some
 ‘ selfish and sordid consideration?

‘ Thus, Sir, I have given you my opinion fully
 ‘ and freely in this affair. * [I know the danger I
 ‘ am in by appearing in favour of this motion. I
 ‘ may perhaps have a message sent me, I may lose
 ‘ the command I have in the army, as other gentle-
 ‘ men have done, for the same reason, before me;
 ‘ but I should think myself a pitiful officer, if I were
 ‘ directed in my voting or behaviour in this house,
 ‘ either by the fears of losing the commission I have,
 ‘ or the hopes of obtaining a better; and if any
 ‘ minister whatever should send to threaten me with
 ‘ the loss of my commission, in case I did not vote
 ‘ in Parliament as he directed, I should receive the
 ‘ message with a suitable indignation, and should be
 ‘ very apt to treat the messenger in such a manner
 ‘ as I do not think decent here to express.] While
 ‘ I have the honour to sit in this house, I shall upon
 ‘ all occasions endeavour to judge impartially, and
 ‘ shall always vote with freedom according as my
 ‘ honour and conscience direct; and as I am con-
 ‘ vinced his Royal Highness has a right, and ought
 ‘ to have a sufficient independent settlement; as I
 ‘ am convinced 50,000*l.* a year is not a sufficient
 ‘ provision for the heir apparent to the crown of
 ‘ *Great Britain*; as I am convinced the civil list, if
 ‘ rightly managed, may easily spare 100,000*l.* a

* *This passage was spoke by the Earl of Westmoreland in the house of Lords.*

‘ year for his royal highness ; as I am convinced
 ‘ this is the sum which was intended for him by that
 ‘ Parliament which established the present civil list
 ‘ revenue ; and as I am convinced His Majesty has
 ‘ been misinformed, and ill-advised, otherwise this
 ‘ sum would have been settled upon him long before
 ‘ this time ; therefore, as a member of this house,
 ‘ as a loyal subject to His Majesty, and as a sincere
 ‘ friend to his family, I think myself obliged in
 ‘ duty, in honour, in conscience, and in spite of
 ‘ every fordid temptation to the contrary, to endea-
 ‘ vour as much as I can, to give my Sovereign a
 ‘ right advice, a true information.’

The Speakers in this debate in the house of Commons were as follows, *viz.*

For the Motion.	Sir <i>Wilfrid Lawson.</i>
<i>William Pulteney, Esq;</i>	Sir <i>John Rushout.</i>
Sir <i>John Barnard.</i>	<i>Henry Batburst, Esq;</i>
<i>John Hedges, Esq;</i>	<i>William Noel, Esq;</i>
Lord <i>Baltimore.</i>	Sir <i>Thomas Saunderson.</i>
<i>Edmond Waller, Esq;</i>	<i>Thomas Frederick, Esq;</i>
Sir <i>William Wyndham.</i>	
<i>Richard Herbert.</i>	Against the Motion.
<i>William Powlet, Esq;</i>	Sir <i>Robert Walpole.</i>
<i>Philip Gybbon, Esq;</i>	Master of the Rolls.
<i>Thomas Littleton, Esq;</i>	<i>Henry Pelham, Esq;</i>
<i>Walter Plumer, Esq;</i>	Mr. Solicitor General.
<i>Richard Glanville, Esq;</i>	Sir <i>William Yonge.</i>
<i>Thomas Bootle, Esq;</i>	<i>Joseph Danvers, Esq;</i>

And in the house of Lords the speakers were as follows, *viz.*

For the Motion.	Against the Motion.
Lord <i>Carteret.</i>	Duke of <i>Newcastle.</i>
Lord <i>Gower.</i>	Lord Vis. <i>Harrington.</i>
Duke of <i>Bedford.</i>	Earl of <i>Findlater.</i>
Duke of <i>Marlborough.</i>	Earl of <i>Illy.</i>

For the Motion.
 Earl of *Chesterfield*.
 Lord *Bathurst*.
 Earl of *Westmoreland*.

Against the Motion.
 Earl of *Scarborough*.
 Lord High Chancellor.
 Earl of *Strafford*.

The division in the house of Commons on this question was, 234 noes, 204 yeas; so that it was carried against the motion by a majority of 30. And in the house of Lords, the division on the question was, in the house 79 not contents, 28 contents; proxies, 24 not contents, 12 contents; in the whole 103 not contents, 40 contents: Majority against the motion 63.

The Lords Protest on the motion to address His Majesty to settle 100,000 l. per annum on the Prince of Wales.

Die Martis, 25 Februarii, 1736.

A Protest relating to the settlement on the Prince of *Wales*.

THE house being moved, That an humble address be presented to His Majesty, to express the just sense of this house, of His Majesty's great goodness and tender regard for the lasting welfare and happiness of his people, in the marriage of his royal highness the Prince of *Wales*; and as this house cannot omit any opportunity of shewing their zeal and regard for His Majesty's honour, and the prosperity of his family, humbly to beseech His Majesty, That in consideration of the high rank and dignity of their royal highnesses, the Prince and Princesses of *Wales*, and their many eminent virtues and merits, he would be graciously pleased to settle 100,000 l. a year on the Prince of *Wales*, out of the revenues cheerfully granted to his Majesty (for the expences of his civil government, and better supporting the dignity of the crown, and for enabling his Majesty to make an honourable provision for his family) in
 the

' the same manner his Majesty enjoyed it before his
 ' happy accession to the throne: And also humbly
 ' to beseech his Majesty, to settle the like jointure on
 ' her royal highness the Princess of *Wales*, as her
 ' Majesty had, when she was Princess of *Wales*;
 ' and to assure His Majesty, that this house will be
 ' ready to do every thing on their part, to perform
 ' the same, as nothing will more conduce to the
 ' strengthening of His Majesty's government, than
 ' honourably supporting the dignity of their royal
 ' highnesses, from whom we hope to see a nume-
 ' rous issue, to deliver down the blessings of his Ma-
 ' jesty's reign to the latest posterity.

The Duke of *Newcastle*, by His Majesty's com-
 mand, made the like signification to the house of
 the message sent by His Majesty in writing to the
 Prince of *Wales*, and of the report of his royal
 Highness's verbal answer, as is printed in the votes
 of the house of Commons of the 22d instant.

And the same being read by the Lord Chancellor,
 after long debate upon the foregoing motion,

The question was put, Whether such an address
 shall be presented to His Majesty.

It was resolved in the negative.

Contents present 28
 Proxies 12 } 40

Not Contents present 79
 Proxies 24 } 103

Dissentient.

1. **B**Ecause that this house has an undoubted right
 to offer, in an humble address to His Ma-
 jesty, their sense upon all subjects, in which this house
 shall conceive that the honour and interest of the
 nation are concerned.

2. Because the honour and interest of the nation,
 crown, and royal family, can be concerned in no-
 thing more, than in having a due and independent
 provision made for the first-born son, and heir appa-
 rent to the crown.

3. Because, in the late King's reign, 100,000 *l.* a year, clear of all deductions whatsoever, was settled upon His present Majesty when Prince of *Wales*, out of a civil list not exceeding 700,000 *l.* a year.

4. Because his present Majesty had granted him by Parliament several funds to compose a civil list of 800,000 *l.* a year, which we have very good reason to believe bring in at least 900,000 *l.* and are more likely to increase than to diminish.

5. Because out of this extraordinary and growing civil list, we humbly conceive His Majesty may be able to make an honourable provision for the rest of his royal family, without any necessity of lessening that revenue, which, in his own case, when he was Prince of *Wales*, the wisdom of Parliament adjudged to be a proper maintenance for the first-born son, and heir apparent of the crown.

6. Because it is the undoubted right of Parliament to explain the intention of their own acts, and to offer their advice in pursuance thereof. And though, in the inferior courts of *Westminster-hall* the Judges can only consider an act of Parliament according to the letter and express words of the act, the Parliament itself may proceed in a higher way, by declaring what was their sense in passing it, and on what grounds, especially in a matter recent, and within the memory of many in the house, as well as out of it.

7. Because there were many obvious and good reasons, why the sum of 100,000 *l.* *per annum* for the Prince, was not specified in the act passed at that time, particularly his being a minor, and unmarried. But we do apprehend, that it is obvious, that the Parliament would not have granted to His Majesty so great a revenue above that of the late King, but
with

with an intention that 100,000 *l.* a year should at a proper time be settled on the Prince, in the same manner as it was enjoyed by his royal father when he was Prince of *Wales*: And his royal highness being now thirty years old, and most happily married, we apprehend it can no longer be delayed, without prejudice to the honour of the family, the right of the Prince, and intention of the Parliament. And as in many cases the crown is known to stand as trustee for the public, upon grants in Parliament; so we humbly conceive, that in this case, according to the intention of Parliament, the crown stands as trustee for the Prince, for the aforesaid sum.

8. Because we do conceive, that the present Princess of *Wales* ought to have the like jointure that her present Majesty had when she was Princess of *Wales*; and that it would be for the honour of the crown, that no distinction whatsoever should be made between persons of equal rank and dignity.

9. Because we apprehend, that it has always been the policy of this country, and care of Parliament, that a suitable provision, independent of the crown, should be made for the heir apparent, that by shewing him early the ease and dignity of independence, he may learn by his own experience, how a great and free people should be governed. And as we are convinced in our consciences, that if this question had been passed in the affirmative, it would have prevented all future uneasiness that may unhappily arise upon this subject, by removing the cause of such uneasiness, and giving his royal highness what we apprehend to be his right; we make use of the privileges inherent in members of this house, to clear ourselves to all posterity, from being concerned in laying it aside.

10. ‘ Lastly, we thought it more incumbent upon us to insist upon this motion, for the sake of this royal family, under which alone we are fully convinced we can live free, and under the royal family we are fully determined we will live free.

*Winchelsea and
(Nottingham,
Berkshire,
Cobham,
Chesterfield,*

*Cardigan,
Marlborough,
Carteret,
Bridgwater,
Bedford,*

*Weymouth,
Bathurst,
Coventry,
Ker,
Suffolk.*

In the house of Lords there happened a debate in relation to form, occasioned by the former debate, which being something curious, we shall give a short account of it.

Debate in
the house of
Lords about
reading his
Majesty's
message.

The Duke of *Newcastle*, who was the first that spoke in that house against the motion, concluded his speech with acquainting their Lordships, that he had a message from his Majesty to communicate to them ; and after reading in his place the same message which had before been communicated to the house of Commons, and of which we have already given a copy, he delivered it to the house, and the Earl of *Strafford* moved it might be read a second time by the noble Lord on the Wooll-sack ; whereupon the Lord *Carteret* stood up and said, ‘ That by the constant form and method of proceeding, it had always been deemed inconsistent with the honour and dignity of that house, to have any papers or writings read a second time by the noble Lord on the Wooll-sack, except speeches or messages made or sent by his Majesty in writing directly to that house : That as for all other writings, or papers, delivered or communicated at any time to that house, if they were to be read a second time, the constant custom had been, to have them
‘ read

Lord Carteret's speech.

‘ read a second time by the clerk at the table. That
 ‘ he was not against having that paper read a second
 ‘ time, which the noble Duke had, by his Maje-
 ‘ sty’s command, communicated to them ; but as it
 ‘ was no message in writing from his Majesty di-
 ‘ rectly to that house, but only an account of a mes-
 ‘ sage his Majesty had been pleased to send to his
 ‘ royal highness the Prince of *Wales*, and of the
 ‘ answer his royal highness had returned to that
 ‘ message, therefore he thought it ought to be read
 ‘ a second time, not by the noble Lord on the Wooll-
 ‘ sack, but by the clerk at the table.’

To this it was answered by the Lord *Delawar*,
 the Earl of *Cholmondeley*, and the Earl of *Ilay*, in
 substance, ‘ That as the paper communicated to
 ‘ them was of the utmost importance, and so very
 ‘ long, that no Lord of that house could judge
 ‘ rightly about it, upon hearing it only once read,
 ‘ it would be absolutely necessary to have it read a
 ‘ second time. That if any foreign Potentate should
 ‘ send a letter or memorial to his Majesty, and he
 ‘ should think fit to communicate the same to that
 ‘ house, every one of their Lordships had a privi-
 ‘ lege to desire it might be read a second time, be-
 ‘ fore the house could enter into any consideration
 ‘ relating to it ; and as the message then delivered
 ‘ to them in writing, was of as great importance
 ‘ as any such letter or memorial could well be,
 ‘ therefore it ought to be read a second time, before
 ‘ they proceeded to take it into their consideration,
 ‘ especially, as the second reading had been moved
 ‘ for by one of their Lordships. That the noble
 ‘ Duke had told them, he had express orders from
 ‘ His Majesty to communicate it to them, therefore
 ‘ it ought to be considered as a direct message from
 ‘ His Majesty to that house, and consequently, as it
 ‘ was in writing, it ought to be read a second time,

Lord *Delawar*’s
 speech.

‘ and that second reading ought to be by the noble
‘ Lord on the Wooll-sack, and not by the clerk at
‘ the table.’

Lord Ba-
shurst's
speech.

To which it was replied by the Lord *Batburst*,
‘ That the question was not, whether or no the mes-
‘ sage should be read a second time, but whether it
‘ should be read a second time by the Lord on the
‘ Wooll-sack, or by the clerk at the table? As to
‘ which, he would desire no other argument, for
‘ convincing him that it ought to be read a second
‘ time by the clerk at the table, than that which
‘ had been mentioned by the noble Lords who seem-
‘ ed to be of a different opinion; for if his Ma-
‘ jesty should receive a letter, memorial, or other
‘ writing, from any Potentate in *Europe*, and should
‘ think fit to communicate it to the house, surely
‘ the Lord, who in that case might be honoured
‘ with His Majesty's commands, would tell the
‘ house, he had exprefs orders from His Majesty to
‘ communicate such a letter, memorial, or writing,
‘ to the house; and yet in that case such a letter,
‘ memorial, or writing, would not be read a second
‘ time by the Lord on the Wooll-sack; it would be
‘ contrary to precedent, and inconsistent with the
‘ dignity of the house to do so; it would be read a
‘ second time only by the clerk at the table, and
‘ then reported to the house by the Lord on the
‘ Wooll-sack: That this had been their constant
‘ custom in all such cases; and the reason was plain,
‘ because in such cases there is no message in wri-
‘ ting sent by His Majesty directly to the house, the
‘ only direct message from His Majesty to the house,
‘ is a verbal message, and that verbal message is de-
‘ livered by the noble Lord, when he tells them he
‘ has orders from His Majesty to communicate such
‘ a writing or paper to them. That if His Majesty
‘ should order a long treaty or negotiation between
‘ him and a foreign Prince to be communicated to
‘ the

‘ the house, there would be the same reason for ha-
 ‘ ving it read a second time by the Lord on the
 ‘ Wooll-sack, as there was, or could be pretended,
 ‘ for having His Majesty’s message to the Prince,
 ‘ and the Prince’s answer, read a second time by the
 ‘ Lord on the Wooll-sack ; and as no such thing
 ‘ had ever been done in the former case, therefore
 ‘ he thought it ought not to be done in the latter.

This is the substance of what was said upon this head ; but the question was not fully debated ; for as many seemed to be impatient to have the message read a second time, the Lords who were for having it read only by the clerk at the table, submitted without a division, and it was read a second time by the noble Lord on the Wooll-sack ; after which they proceeded in the debate upon the chief motion ; and at the end of that debate, the Earl of *Strafford*, who was the last that spoke, said, ‘ That, altho’
 ‘ he was, in his opinion, against the motion, and
 ‘ therefore obliged to differ from those with whom
 ‘ he had generally agreed, and would again agree,
 ‘ he believed, in all matters where the constitution
 ‘ or liberties of his country were concerned, neither
 ‘ of which, he thought, had any concern in the que-
 ‘ stion then before them, yet, he thought it would
 ‘ be better, and more decent, to wave putting any
 ‘ question upon the motion ; for which reason, if
 ‘ any of their Lordships appeared to be of his opi-
 ‘ nion, he would move, to adjourn till next mor-
 ‘ ning.’ But as no Lord seemed inclined to second this motion, his Lordship waved making it ; and the question being put upon the principal motion, it was carried in the negative, as above related.

Lord *Strafford*’s speech.

ON *Wednesday, Feb. 2*, a petition of the gentle-
 men, clergy, and other freeholders of the
 county

An account
 of the *Nor-*
folk election.

county of *Norfolk*, whose names were thereunto subscribed, in behalf of themselves, and of a great number of the freeholders of that county, complaining of an undue election and return for the said county, was presented to the house, and read; and it was ordered, that the matter of the said petition should be heard at the bar of that house, upon *Thursday* the third day of *March* then next; and that lists, with respect to the said election, should be, in pursuance of the resolution of that house, delivered by that day three weeks, *viz. Feb. 23.*

This was the first petition relating to controverted elections that was presented, and, if it had been prosecuted, would certainly have taken up all the time the session had to spare for such affairs, and would probably have ended in the same manner with the *Yorkshire* election, in the preceding session; but on *March 2*, a motion was made, that the petitioners might be at liberty to withdraw their petition, which was accordingly granted, and, the controversy being thus ended, Mr. Speaker was next day ordered by the house to issue his warrant to the clerk of the crown, to make out a new writ for electing a Knight of the shire to serve in the present Parliament for the said county, in the room of *William Wodehouse*, Esq; who had died after his election and return, against which the said petition was presented.

Tho' this election was thus given up, yet there was one thing happened relating to it, which, as the point was not then properly determined, may hereafter occasion a dispute in some other election; and therefore we think ourselves obliged to give some account of it.

The resolution of the house relating to the delivering of lists of controverted voters, which is a resolution always agreed to, the beginning of each session, and in pursuance of which, the lists, with respect to this controverted election, had been ordered to

to be delivered as before mentioned, is as follows, viz. *That in all cases of controverted elections for counties in England and Wales, to be heard at the bar of that house, or before the committee of privileges and elections, the petitioners should by themselves, or by their agents, within a convenient time, to be appointed either by the house or the committee of privileges and elections, as the matter to be heard shall be before the house or the said committee, deliver to the sitting members or their agents, list of the persons intended by the petitioners to be objected to, who voted for the sitting members; giving, in the said lists, the several heads of objection, and distinguishing the same against the names of the voters excepted to; and that the sitting members should, by themselves, or by their agents, within the same time, deliver the like lists on their part, to the petitioners or their agents.*

In pursuance of this resolution, and according to the order of the house, the petitioners for the county of *Norfolk*, and the sitting member for that county, there being then only one in the house, who supported the election of himself and the other member deceased, delivered lists to each other respectively, within the time limited by the house; but in the lists delivered by the petitioners to the sitting member, the heads of objection were not properly distinguished against the names of the voters excepted to; for almost all the material heads of objection that could be made against any voter for the county, were set against the name of almost every voter they excepted to; which the sitting member thought contrary to the resolution, and therefore he made his complaint to the house, and represented, ‘ That the
 ‘ resolution had been agreed to, in order to save
 ‘ trouble and expences to both parties concerned,
 ‘ and likewise to prevent either party’s taking up the
 ‘ time of the house with examining witnesses to an
 ‘ objection

Debate about lists of controverted voters.

The sitting member’s complaint, with his reasons.

‘ objection he could not fully prove, and then fly-
‘ ing from that to another, from thence to a third,
‘ &c. That if either party thought he had several
‘ objections to any voter, each of which would be
‘ of itself sufficient, he ought, by the resolution,
‘ to fix upon that objection which he thought he
‘ could most clearly prove, and distinguish that head
‘ of objection only, against the name of that voter;
‘ by which means the other party might know what
‘ he had to do, and might prepare proper proofs
‘ or materials for supporting the right of his voter
‘ against that objection: But in the manner the lists
‘ had been delivered to him, it would be impossible
‘ for him to know what to do, for that it would
‘ be vastly troublesome and expensive to prepare
‘ proper proofs and materials for supporting the
‘ right of a voter against every objection that
‘ could be made; and if he prepared to answer
‘ one objection only, he might at last find himself
‘ obliged to answer another objection, for the an-
‘ swering of which he could not then possibly have
‘ an opportunity to prepare: That if the method, in
‘ which the petitioners lists were drawn up, should
‘ be admitted, it would render that part of the reso-
‘ lution quite useless, which relates to the distin-
‘ guishing the heads of objection against the names
‘ of the voters excepted to; for if all the heads of
‘ objection that could possibly be made against any
‘ voter, should be set against the name of every
‘ voter, it would be the very same with making no
‘ particular objection at all, which would leave both
‘ parties as much at liberty to vex one another, and
‘ to take up the time of the house unnecessarily, as
‘ if no such resolution had ever been made: And
‘ lastly, that in the particular case then before them,
‘ it would be a great hardship upon him; because
‘ in the lists he had delivered to the petitioners, he
‘ had strictly conformed to the resolution of the
‘ house,

‘ house, which would give the petitioners a very
‘ great advantage over him ; therefore he desired
‘ they might be ordered to amend their lists, and to
‘ put them in that method which was prescribed by
‘ the resolution.

To which it was answered, ‘ That by the resolu- Answer.
‘ tion it was not intended to limit either the peti-
‘ tioners or the sitting member, to the making but
‘ one objection only against each voter excepted to ;
‘ nor could it be supposed that the house meant any
‘ such thing, when they agreed to that resolution ;
‘ because it would be doing injustice to both, to li-
‘ mit them to the making but one objection to a
‘ voter, against whom they had several material ob-
‘ jections ; therefore it was to be presumed, the re-
‘ solution intended only to oblige each party to ex-
‘ plain and expressly mention the several objections
‘ they were to make against each voter excepted to,
‘ which was the method the petitioners had taken
‘ with respect to the lists they had delivered ; and
‘ by that method the sitting member might know
‘ what to do, and could be put to no greater ex-
‘ pence or trouble than the nature of the case requi-
‘ red ; for if he found that any one of the objections
‘ proposed was well founded, and would probably
‘ be sufficiently proved, it would be quite unnecessa-
‘ ry for him to put himself to any expence or trou-
‘ ble in supporting the right of a voter, who, he
‘ knew, had no right ; nor could the time of the
‘ house be unnecessarily taken up, because each
‘ party would begin with examining witnesses as to
‘ that objection which he thought the strongest, and
‘ which he thought he could the most fully prove ;
‘ and if he found he had fully proved that objec-
‘ tion, he would proceed no farther, nor trouble
‘ himself or the house with proving any other ob-
‘ jection ; whereas, if his witnesses for proving that
‘ objection

‘ objection, should not, in their examination before
 ‘ the house, come up to that which they had decla-
 ‘ red to him in the country, which was often the
 ‘ case, it would be injustice to preclude him from
 ‘ proving any other objection, when he found he
 ‘ neither had, nor could fully prove the objection
 ‘ he had first insisted on; and therefore they did
 ‘ not think themselves obliged by the resolution to
 ‘ amend their lists, or to deliver them in any other
 ‘ manner than what they had done: However,
 ‘ that they might not be thought to intend, and
 ‘ as they did not desire to take any sort of ad-
 ‘ vantage of the sitting member, they were wil-
 ‘ ling to amend their lists, and to put them in
 ‘ the very same method with those delivered to
 ‘ them by him; so that it would be quite unneces-
 ‘ sary for the house to interpose in the affair, or to
 ‘ come to any new resolution, or order, upon that
 ‘ head.’

This compliance in the petitioners prevented a
 reply, and likewise prevented the house's coming
 to any new resolution, or to any determination, for
 explaining their former resolutions; so that the point
 in dispute remains undetermined, and, if no new
 law be made for regulating the elections for coun-
 ties, it may be the subject of some future debate.

An account
 of the *Flint*
 election.

UPON the same day, viz. *Feb. 2*, and immediately
 after the proper orders were made for hearing
 the petition from *Norfolk*, as before mentioned, a
 petition of Sir *John Glynn*, Bart. complaining of
 an undue election and return for the borough of
Flint, in the county of *Flint*, was presented to the
 house and read; and it was ordered, That the
 matter of the said petition should be heard upon
Tuesday, March 8, then next; which order was
 afterwards put off to *Thursday, March 24*, when
 the house proceeded to the hearing of the matter
 of

of the said petition ; and the petition, and the last determination of the house, concerning the right of electing a burges to serve in Parliament for the said borough, made *May* 21, 1728 ; and also the standing order of the house, made *Jan.* 16, 1735, for restraining the counsel at the bar of that house, or before the committee of privileges and elections, from offering evidence touching the legality of votes for members to serve in Parliament for any county, shire, city, borough, cinque-port, or place, contrary to the last determination of the house of Commons ; were read.

Then the counsel for the petitioner were heard ; and the original poll taken at the said election, being produced ; and the title thereof, and the total number of votes for each candidate, being read ; they examined several witnesses, touching the behaviour of the returning officers at the time of taking and closing the said poll, and the declaration of the number of votes, and of the majority, and touching a scrutiny to be had, and the manner of making the return, and the declaration of one of the returning officers, and the instructions to him given by the sitting member previous to the election, and other occurrences at and after the said election : After which, the said return, dated *May* 16, 1734, on which day the poll was closed, being read, the counsel for the petitioner were farther heard, as to the merits of the return ; when they insisted, that the counsel for the sitting member should proceed to justify the return, before the merits of the election should be proceeded upon : As to which point the counsel for the sitting member were heard by way of answer, and the counsel for the petitioner by way of reply ; and then the counsel on both sides being, according to direction, withdrawn, the following motion was made, *viz.*

That

That the counsel for the sitting member be directed to proceed, in order to justify the return for the borough of Flint, before the merits of the election are proceeded upon.

Upon this motion there was a long debate, and the question being at last put, it was carried in the negative, by 205 to 166.

After which, the farther hearing of the matter of the said petition was ordered to be adjourned to *Tuesday* then next; when the counsel for the petitioner proceeded in their evidence; and having proposed to qualify several persons, whose votes for the petitioner appeared, upon the original poll taken at the said election, to have been disallowed by the returning officers, they examined *Benjamin Hughes*, one of the Church-wardens of the parish of *Flint*, at and before the time of the said election, in order to qualify one of the said persons; and a paper being by the said witness produced, purporting to be the church and poor rate for the borough of *Flint* in the year 1733, the counsel for the sitting member (having cross-examined him, and examined a witness in relation to the said paper) objected to the admitting of that paper in evidence: As to which objection, the counsel for the petitioner were heard by way of answer, and the counsel for the sitting member by way of reply; and then the counsel on both sides being, by direction, withdrawn, the following motion was made, *viz.*

That the paper produced by Benjamin Hughes be admitted in evidence, as the rate for the church and poor of the borough of Flint for the year 1733.

Upon this motion there was likewise a debate; but upon the question's being put, it was carried in the negative; and then the farther hearing of this matter

ter was ordered to be adjourned till *Thursday* morning then next.

On that day the counsel for the petitioner examined several witnesses, and produced evidence, in order to qualify several persons, whose votes for the petitioner appeared, upon the original poll taken at the said election, to have been disallowed by the returning officers; and on the *Tuesday* following, being *April 5*, they examined several witnesses, and produced evidence, in order to add to the poll of the petitioner several persons, who offered to vote for him at the said election, but were refused by the returning officers; and having proposed to add to the said poll *Matthias Rogers*, by proving that his landlord paid scot and lot for the tenement, in which the said *Matthias Rogers* inhabited, they thereupon acquainted the house, that they intended to offer the like proof, as to the other persons; upon which they were directed to withdraw, and upon their being withdrawn, the following motion was made, viz.

That the inhabitants of the several boroughs of Flint, Rhydland, Caetwys, Caerguerley and Overton (including Knolton and Overton-foreign) renting lands or tenements, for which the landlords thereof only pay scot and lot, have a right to vote in the election of a burghers to serve in Parliament for the borough of Flint in the county of Flint.

Upon this motion there was a long debate, and the previous question being proposed, viz. Whether that question should be then put? It was, upon a division, carried in the negative, by 149 to 115; so that there was no question put upon the motion: After this the counsel were again called in, when they proceeded in their evidence, by examining witnesses, and producing evidence, in order to add to the poll of the petitioner the said *Matthias Rogers*,

and several other persons, who offered to vote for the petitioner at the said election, and were refused by the returning officers.

Next morning the house, according to order, proceeded to the farther hearing of the said matter, when the counsel for the petitioner examined several witnesses, and produced evidence, in order to disqualify several persons, who voted for the sitting member ; after which the farther hearing was ordered to be adjourned to *Tuesday* the 19th, on account of *Easter* holy-days.

Accordingly, on the 19th, the house resumed the hearing of the said matter, and the counsel for the sitting member being heard, they examined several witnesses touching the occasion of examining upon oath into the qualification of the electors, and of protracting the poll ; and touching the threats and abusive language offered to the returning officers, and an assault upon one of them ; and the declaration of the number of votes, and the demand of a scrutiny ; and the manner of declaring the majority, and other transactions at and after the election : And the record of *Nisi Prius* upon an information prosecuted against *Richard Williams*, clerk, for the said assault upon *John Roberts*, one of the returning officers, being produced, the verdict of the jury, by whom the said *Richard Williams* was convicted of the said assault, was read : After which the farther hearing was ordered to be adjourned till next morning.

Next day, and the day following, the counsel for the sitting member examined several witnesses, and produced evidence, in order to disqualify several persons, whose votes for the petitioner appeared, upon the original poll taken at the said election, to have been disallowed by the returning officer, and whom the petitioner's counsel had endeavoured to qualify ;

qualify ; and in order to disqualify several persons, who offered to vote for the petitioner at the said election, and were refused by the returning officers, and whom the counsel for the petitioner had endeavoured to add to his poll ; and likewise they examined several witnesses, in order to justify the votes of several persons who voted for the sitting member, and whom the counsel for the petitioner had endeavoured to disqualify.

On *Tuesday* the 26th, when this affair was again resumed, the counsel for the sitting member proceeded farther to justify, as last mentioned ; and then they examined witnesses, and produced evidence, in order to qualify several persons who offered to vote for the sitting member at the said election, and were refused by the returning officers ; after which they examined several witnesses, and produced evidence, in order to disqualify several persons, who voted for the petitioner at the said election.

On *Thursday* the 28th, the counsel for the sitting member summed up their evidence : Then the counsel for the petitioner were heard by way of reply ; and examined several witnesses, and produced evidence, in order to justify the votes of several persons, who voted for the petitioner at the said election, and whom the counsel for the sitting member had endeavoured to disqualify ; and also to disqualify several persons, who offered to vote for the sitting member at the said election, and who were refused by the returning officers, and whom the counsel for the sitting member had endeavoured to add to his poll ; and also to discredit and contradict several witnesses, examined on the part of the sitting member : After which, part of the information prosecuted against *Richard Williams*, clerk, for the assault upon *John Roberts*, one of the returning officers, was read, and

the counsel for the petitioner having finished their reply, the counsel on both sides were ordered to withdraw.

Thus the hearing of the matter of the said petition being finished, and the counsel withdrawn, the following motion was then made, *viz.*

That Sir George Wynne, Bart. is duly elected a burghess to serve in this present Parliament, for the borough of Flint in the county of Flint.

Whereupon Sir *George Wynne*, the sitting member, having been first heard in his place, and afterwards withdrawn, as usual in such cases, there ensued a long debate; and the question being at last put, it was carried in the affirmative upon a division, by 158 to 107.

Resolutions
of the com-
mittee of
supply.

The house of Commons having resolved on the 2d of *February*, that they would next morning take into consideration the speech of the Lords Commissioners, appointed by His Majesty for holding that Parliament, to both houses of Parliament, they accordingly proceeded next day to take the said speech into consideration, and the same being again read by Mr. Speaker, a motion was made, That a supply should be granted to His Majesty; whereupon it was resolved, That the house would next morning resolve itself into a committee of the whole house, to consider of the said motion.

Thus the committee of supply was established in the usual form; and as that committee is in every session one of the chief committees, we shall give the history of it during the session; in order that our readers may have at once, and as it were at one view, all the resolutions agreed to in that committee.

- On

On the 4th, the order of the day being read, for the house to resolve itself into the said committee, the said speech of the Lords Commissioners was ordered to be referred to the same; and the house having then resolved itself into the said committee, they resolved, That it was the opinion of that committee, that a supply should be granted to His Majesty; which was, on the *Monday* following, reported and agreed to by the house, *nemine contradicente*.

On the 9th, the house, according to order, resolved itself again into the said committee, and came to the following resolutions, which were reported, and all agreed to by the house, *viz.*

That ten thousand men should be employed for the sea service for the year 1737, beginning from *January* 1, 1736: That a sum, not exceeding 4 *l.* per man per month, should be allowed for maintaining the said 10,000 men for thirteen months, including the ordnance for sea service: And that a sum, not exceeding 219,201 *l.* 6 *s.* 5 *d.* should be granted to His Majesty for the ordinary of the navy (including half-pay to sea-officers) for the year 1737.

On the 18th, the said committee came to the following resolutions, which were reported, and all agreed to by the house, *viz.* That the number of effective men to be provided for guards and garrisons in *Great Britain*, and for *Guernsey* and *Jersey*, for the year 1737, should be (including 1815 invalids, and 555 men, which the six independent companies consist of for the service of the *Highlands*) 17,704 men, commission and non commission officers included: That a sum, not exceeding 647,549 *l.* 11 *s.* 3 *d.* $\frac{1}{2}$ should be granted to His Majesty, for defraying the charge of the said 17,704 men: That a sum, not exceeding 215,710 *l.* 6 *s.* 5 *d.* $\frac{1}{2}$ should be granted to His Majesty, for maintaining His Majesty's forces

forces and garrisons in the *Plantations*, *Minorca*, and *Gibraltar*, and for provisions for the garrisons at *Annapolis Royal*, *Canso*, *Placentia*, and *Gibraltar*, for the year 1737.

On the 28th, the said committee came to the following resolutions, which were reported, and all agreed to by the house, *viz.* That a sum, not exceeding 79,723 *l.* 6 *s.* 3 *d.* should be granted to His Majesty, for the charge of the office of ordnance for land service, for the year 1737 : That a sum, not exceeding 604 *l.* 19 *s.* 2 *d.* should be granted to His Majesty, for defraying the extraordinary expence of the office of ordnance for land service, and not provided for by Parliament : That a sum, not exceeding 62,401 *l.* 3 *s.* 6 *d.* $\frac{3}{4}$ should be granted to His Majesty, to make good the deficiency of the grants, for the service of the year 1736 : That a sum, not exceeding 10,043 *l.* 3 *s.* 10 *d.* $\frac{1}{4}$ should be granted to His Majesty, to replace, to the sinking fund, the like sum paid out of the same, to make good the deficiency of the additional stamp duties at *Christmas*, 1735, pursuant to a clause in an act of Parliament passed in the fourth year of His Majesty's reign, for raising 1,200,000 *l.* by annuities and a lottery, for the service of the year 1731 : That a sum, not exceeding 42,817 *l.* 10 *s.* should be granted to His Majesty, on account of the subsidy payable to the King of *Denmark*, pursuant to the treaty bearing date *September* 19, 1734, for three quarters of a year, to *September* 19, 1737.

On *March* 4, the said committee came to the following resolutions, which were reported, and all agreed to by the house ; *viz.* That a sum, not exceeding 28,707 *l.* 5 *s.* 10 *d.* should be granted to His Majesty, upon account, for out pensioners of *Chester-hospital*, for the year 1733 : That a sum, not exceeding 56,413 *l.* 14 *s.* 3 *d.* $\frac{1}{4}$ should be granted to His

His Majesty, for defraying several extraordinary services and expences, incurred in the years 1735 and 1736, and not provided for by Parliament: That a sum, not exceeding 10,000 *l.* should be granted to His Majesty, upon account, towards the support of the royal hospital at *Greenwich*, for the better maintenance of the seamen of the said hospital, worn out and become decrepid in the service of their country.

On the 9th, the house resolved itself again into the said committee, and made some progress; and on the 11th, being again in the said committee, they came to the following resolution, which was reported, and agreed to by the house, *viz.* That the sum of one million should be granted to His Majesty, towards redeeming the like sum of the increased capital of the *South Sea* company, as is now commonly called *Old South Sea annuities*.

On the 19th, the said committee came to the following resolutions, which were reported, and all agreed to by the house, *viz.* That a sum, not exceeding 20,000 *l.* should be granted to His Majesty, towards settling and securing the colony of *Georgia* in *America*: That a sum, not exceeding 10,000 *l.* should be granted to His Majesty, to be applied towards the maintenance of the *British* forts and settlements belonging to the royal *African* company of *England*, on the coast of *Africa*: That the sum of 4000 *l.* should be granted to His Majesty, towards repairing and finishing the collegiate church of *St. Peter, Westminster*: That a sum, not exceeding 44,685 *l.* 2 *s.* 6 *d.* should be granted to His Majesty, upon account, for reduced officers of His Majesty's land forces and marines, for the year 1737: That a sum, not exceeding 3945 *l.* should be granted to His Majesty, for paying of pensions to the widows of such reduced officers of His Majesty's land forces

and marines, as died upon the establishment of half-pay in *Great Britain*, and who were married to them before *December 25, 1716*, for the year 1737: That a sum, not exceeding 50,000*l.* should be granted to His Majesty, towards the rebuilding and repairing the ships of the royal navy, for the year 1737.

This was the last time of the said committee's sitting; and by the above-mentioned resolution it appears, that the total sum granted by that session of Parliament amounts to 2,025,172*l.* 9*s.* 6*d.* $\frac{3}{4}$, besides the million granted for redeeming so much of the *South Sea* capital.

Resolutions
of the Com-
mittee of
ways and
means.

As soon as the house had agreed to the three resolutions of the Committee of supply, first above mentioned, relating to the seamen and navy, which was on *Thursday February 10*, they resolved, that they would next morning resolve themselves into a Committee of the whole house, to consider of ways and means for raising the supply granted to His Majesty; and accordingly, next day the house resolved itself into the said Committee, in which they resolved, That it was their opinion, that towards raising the supply granted to His Majesty, the duties on malt, mum, cyder, and perry, which, by an act of Parliament of the 9th year of His Majesty's reign, had continuance to *June 24, 1737*, should be farther continued, and charged upon all malt which should be made, and all mum which should be made or imported, and all cyder and perry which should be made for sale, within the kingdom of *Great Britain*, from *June 25, 1737*, to *June 24, 1738*. Which resolution was, according to order, reported to the house the next day, and agreed to; and the house ordered that a bill should be brought in upon the said resolution, and that Sir *Charles Turner*, Mr. Chancellor

Chancellor of the *Exchequer*, &c. should prepare and bring in the same.

The said Committee was by order continued from time to time, without sitting, 'till *Monday, March 14*, when the house resolved itself again into this Committee, and came to the following resolution, which was reported and agreed to by the house, *viz.* That towards raising the supply granted to His Majesty, the sum of 2 s. in the pound, and no more, should be raised in the year 1737, upon lands, tenements, hereditaments, pensions, offices, and personal estates, in that part of *Great Britain* called *England, Wales*, and the town of *Berwick upon Tweed*; and that a proportional cess, according to the 9th article of the treaty of Union, should be laid upon that part of *Great Britain* called *Scotland*: After which the house ordered, That a bill should be brought in upon the said resolution; and that Sir *Charles Turner*, Mr. Chancellor of the *Exchequer*, &c. should prepare and bring in the same.

On the 18th, the said Committee came to the following resolutions, which were reported, and agreed to by the house, but with some amendments to the third, as below mentioned, *viz.* That the duty of 36 s. a barrel on sweets granted by an act of the 5th year of her late Majesty Queen *Anne*, for the term of 96 years, and since made perpetual, should from and after *June 24*, 1737, cease and determine. That there should be granted to His Majesty for every barrel of sweets made for sale, from and after *June 24*, 1737, the sum of 12 s. the said duties to be paid by the maker and makers of the said sweets, and so in proportion for greater or lesser quantities. That the allowance of 5 s. per barrel on *British*-made gunpowder exported, granted by an act of the 4th year of his present Majesty's reign, which was to expire at the end of that session of Parliament, should be farther continued for seven years. That towards raising
the

the supply granted to His Majesty, a duty of 2 s. *per* bushel should be laid upon all apples, which at any time or times, from and after *June* 24, 1737, should be imported and brought into the kingdom of *Great Britain*, over and above all customs, subsidies and duties before imposed thereon. The third resolution as amended and agreed to by the house was as follows, *viz.* That the allowance of 4 s. 6 d. *per* barrel on *British*-made gun-powder exported, granted by an act of the 4th year of his present Majesty's reign, which was to expire at the end of that session of Parliament, should be farther continued for seven years. Then the house ordered, That leave should be given to bring in a bill or bills upon the said resolutions; and that Sir *Charles Turner*, Mr. Chancellor of the *Exchequer*, Mr. *Doddington*, Sir *George Oxenden*, the Lord *Sundon*, Mr. *Winnington*, Mr. Attorney General, Mr. Solicitor General, Mr. *Scrope*, and Mr. *Edward Walpole*, should prepare and bring in the same.

From the said *March* 18, the order for this Committee was continued from time to time, 'till *Friday May* 6, when the house resolved itself again into the said Committee, and came to the following resolutions, which were reported to the house on the *Monday* following, and are as follows, *viz.* That it was the opinion of that Committee, that towards raising the supply granted to His Majesty, there should be issued and applied the sum of one million out of such monies as had arisen, or should or might arise out of the surplusses, excesses, or overplus monies, commonly called the sinking fund. That for the encouragement of the paper manufacture of this kingdom, there should not be allowed any draw-back or repayment of customs charged upon foreign paper, which should be imported into *Great Britain*, upon the exportation thereof. That towards raising the supply granted to His Majesty, a farther duty of 9 d. *per*

per bushel should be laid upon all oysters imported into *Great Britain*. Of these three resolutions, the first and second were agreed to by the house; but the third was re-committed: And it was ordered that it should be an instruction to the gentlemen who were appointed to prepare and bring in a bill or bills upon the resolutions of the 18th of *March* above-mentioned, that they should insert a clause or clauses in one of the said bills, pursuant to the said second resolution.

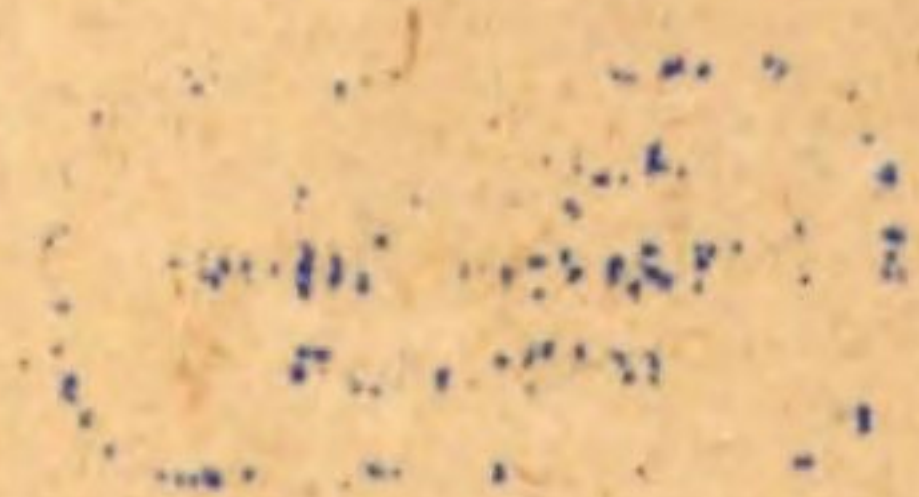
On the 17th, the said Committee came to the following resolutions, which were reported, and agreed to by the house, *viz.* That the several rates and duties then payable upon foreign oysters imported into this kingdom, should from and after *June 24, 1737*, cease and determine. That a duty of seven pence *per* bushel, strike measure of the *Winchester* corn-bushel, should be laid upon all foreign oysters imported into this kingdom, in lieu of all other rates and duties before imposed thereon. After which it was ordered, that a bill should be brought in pursuant to the said resolutions; and that Sir *Charles Turner*, Mr. *Horsemonden Turner*, Mr. *Scrope*, Mr. *Pollhill*, Admiral *Haddock*, and Mr. *Gibbon*, should prepare and bring in the same.

This was the last time of the said Committee's sitting, and from their resolutions it appears, that the ways and means proposed for raising the supply for the present year, were (besides the million granted out of the sinking fund) the malt tax, which is generally supposed to produce near 700,000 *l.* a year, and the land-tax, which, at 2 *s.* in the pound, produces near a million; and for making good the deficiency, His Majesty was enabled to borrow any sum or sums of money, upon the credit of the duties laid on sweets, not exceeding 500,000 *l.* at an interest of 3 *per Cent. per Annum*.

Several of the above-mentioned resolutions both in the Committee of supply, and in the Committee of ways and means, occasioned long debates; but we thought it was proper to give first the resolutions by themselves, that our readers might at once see the several sums granted for the service of this year, and the several ways and means proposed for raising those sums; and hereafter we shall give an account of the debates in order as they occurred, the first of which was in relation to that resolution of the Committee of supply for keeping up 17,704 men of regular forces.

The End of the **FOURTEENTH VOLUME.**

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A Collection Of The Parliamentary Debates In England From The Year M,DC,
LXVIII. To the present Time

Bd.: 14

London (1741)

Brit. 136-14

urn:nbn:de:bvb:12-bsb10279164-4